

GOVERNORS'  
CONFERENCE  
PROCEEDINGS  
— 1914 —

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# PROCEEDINGS

OF THE

## SEVENTH MEETING OF THE GOVERNORS

OF THE

STATES OF THE UNION

HELD AT

MADISON, WISCONSIN

NOVEMBER 10-13

1914

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## ORGANIZATION

NOVEMBER, 1914, TO 1915 ANNUAL MEETING

### Executive Committee

GOVERNOR DAVID I. WALSH, Massachusetts

GOVERNOR WILLIAM SPRY, Utah

GOVERNOR LUTHER E. HALL, Louisiana

### Treasurer

FORMER GOVERNOR JOHN FRANKLIN FORT

Essex Building, Newark, New Jersey

### Secretary

MILES C. RILEY

State Capitol, Madison, Wisconsin

# GOVERNORS, FORMER GOVERNORS AND GOVERNORS-ELECT ATTENDING THE CONFERENCE

HELD AT MADISON, WISCONSIN

NOVEMBER 10-13, 1914

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Governor Emmet O'Neal of Alabama  
Governor Elias M. Ammons of Colorado  
Governor Simeon E. Baldwin of Connecticut  
Governor Edward F. Dunne of Illinois  
Governor Luther E. Hall of Louisiana  
Governor Wm. T. Haines of Maine  
Governor David I. Walsh of Massachusetts  
Governor Adolph O. Eberhart of Minnesota  
Governor S. V. Stewart of Montana  
Governor L. B. Hanna (Represented) of North Dakota  
Governor Cole L. Blease of South Carolina  
Governor Frank M. Byrne of South Dakota  
Governor William Spry of Utah  
Governor Francis E. McGovern of Wisconsin  
Governor Joseph M. Carey of Wyoming  
Governor-Elect George A. Carlson of Colorado  
Governor-Elect John B. Kendrick of Wyoming  
Former Governor John Franklin Fort of New Jersey  
Former Governor James O. Davidson of Wisconsin  
Former Governor Robert S. Vessey of South Dakota  
Former Governor George W. Peck of Wisconsin

# GOVERNORS' CONFERENCE

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## ARTICLES OF ORGANIZATION

### ARTICLE I.

The style of this organization shall be the "Governors' Conference."

### ARTICLE II.

Active membership in the Governors' Conference shall be restricted to the Governors of the several states and territories of the United States, the term "Governors" to include Governors-Elect. Ex-Governors shall be received as honorary members and, as such, shall be entitled to all the rights and privileges of active membership except the right of voting.

### ARTICLE III.

The functions of the Governors' Conference shall be to meet yearly for an exchange of views and experience on subjects of general importance to the people of the several states, the promotion of greater uniformity in state legislation and the attainment of greater efficiency in state administration.

### ARTICLE IV.

The Conference shall meet annually at a time and place selected by the members at the preceding annual meeting.

### ARTICLE V.

The Conference shall have no permanent president.

A Governor shall be selected by the Executive Committee at the close of each half day's session to preside at the succeeding meeting.

### ARTICLE VI.

There shall be no permanent rules for the government of the Conference in discussion or debate, but the procedure at any session shall be subject to the pleasure of the Governors present.

### ARTICLE VII.

The proceedings of the Conference shall be fully reported and published.

### ARTICLE VIII.

The affairs of the Conference shall be managed by an Executive Committee composed of three members to be chosen by the Conference at the regular

annual meeting. They shall hold office until the close of the succeeding regular annual meeting and until their successors are chosen. Vacancies in the Executive Committee may be filled by the remaining members thereof.

#### ARTICLE IX.

A secretary and a treasurer shall be elected by the Conference at each annual meeting.

The secretary shall attend all meetings of the Conference, keep a correct record thereof, safely keep and account for all documents, papers and other property of the Conference which shall come into his hands, and shall perform all other duties usually appertaining to his office or which may be required by the Executive Committee. He shall be paid an annual salary of not to exceed twenty-five hundred dollars and shall be reimbursed his actual and necessary expenses incurred while traveling on the business of the Conference.

The secretary shall annually prepare and submit to the Conference a budget of the expenses for the ensuing year. He shall make all necessary arrangements for a program for the regular annual meeting and shall edit the stenographic reports of the proceedings at all meetings. He shall, also, so far as possible, co-operate and keep in touch with organizations, societies and other agencies designed to promote uniformity of legislation.

#### ARTICLE X.

The treasurer shall have the custody of the funds of the Conference, subject to the rules of the Executive Committee. He shall deposit funds of the Conference in its name, shall annually report all receipts, disbursements and balances on hand, and shall furnish a bond with sufficient sureties conditioned for the faithful performance of his duties.

#### ARTICLE XI.

Persons not members of the Conference shall not be heard until the regular order of business for the day has been concluded, and then only by unanimous consent. All programs for social entertainment must be approved in advance by the Executive Committee.

#### ARTICLE XII.

These articles or any of them may be altered, amended, added to or repealed at any time by a majority vote of all Governors present and voting at any regular annual meeting of the Conference.

# MEETING OF GOVERNORS

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## SEVENTH ANNUAL SESSION

TUESDAY, NOVEMBER 10, 1914.

The seventh Conference of Governors was called to order in the assembly chamber, State Capitol, Madison, Wisconsin, at ten o'clock A. M., by Governor McGovern of Wisconsin, chairman of the Executive Committee.

GOVERNOR MCGOVERN—Members of the Governors' Conference, Ladies and Gentlemen:

Many members of the Conference who are expected to attend have not yet arrived. They will come on the noon train, some of them in the afternoon, and some in the evening. Nevertheless, the time has arrived for proceeding with the program for this Conference. It is well known, of course, that there are no permanent officers, in the conventional sense, for this organization. We have an executive committee and a secretary when the Conference is not in session; that is all. The committee is charged with the duty of selecting a temporary presiding officer for each session, and Governor Baldwin of Connecticut has been asked to preside at this opening session. I see he is present and will ask him to please come forward.

Governor Simeon E. Baldwin, Connecticut, assumed the chair.

GOVERNOR BALDWIN—Fellow Governors, Ladies and Gentlemen: In coming to Madison I am sure, in the old saying, "Our lines are cast in pleasant places." As we look out of those windows and see the University dome on our right, and think of the dome above us, we feel that the influences of university life and the influences of public life, both unite to dominate the civic spirit of Madison, and we are to open to-day with a word of welcome from the state, from the city, and from the university. I will call first on Governor McGovern.

GOVERNOR MCGOVERN (of Wisconsin)—Mr. Chairman, Gentlemen of the Conference, Ladies and Gentlemen: It is indeed a

unique pleasure and a joy to me to welcome you to Wisconsin. Shortly after my election four years ago and before I had been inaugurated I went to the third meeting of this Conference at the capital of Kentucky and I have not missed a meeting since. So this makes the fifth Conference I have attended. The first two were held before my time or I should have gone to them also. Meanwhile the Conference has grown, as you know, from a fugitive, temporary organization into a permanent institution of government; and I have come to know the members here as I could not have known them otherwise. I count them all my personal friends; and now that my term of office is drawing to a close I wish to testify to the pleasure and profit I have derived from my membership here. For three successive years you have honored me with the chairmanship of your executive committee; and you now place both me and my state under further and deeper obligations by meeting in Madison. In doing so you have made us all very proud and happy. It is a real delight to me to be able to greet you on Wisconsin soil and to welcome you in this beautiful new capitol building.

There is only one deduction to be made from the pleasure of our greeting. The season is too far advanced for you to see Wisconsin at her best. As you know, we first planned for your coming late in May or early in June when the whole state was in bloom; but because of the exigencies of divers and sundry election campaigns then in progress you could not come. So the meeting was postponed. We receive you now instead, hoping that wicked politicians have ceased from troubling and that the weary are at rest. Even if flowers bloom no more and leaves are fallen, even if the song birds have gone to the South and old mother earth has put on somber attire, we still have our lakes and fields and forests and a warm-hearted greeting for our guests.

In the past we spent a great deal of time at these meetings talking about the scope and functions of this body. Now that a permanent organization has been effected and is working satisfactorily these topics need occupy our thought no longer. The objects of the Governors' Conference are stated in our Articles of Organization. They are three in number.

Very properly, first place has been given to "an exchange of views and experience on subjects of general importance to the



people of the several states." This is a prime function of the Conference. It is the one its name implies. Whether fitted for leadership or not, whether he likes it or not, the Governor of each state must for the time being be the political leader of his people. In all matters affecting the state they look to him. They cannot very well do otherwise; for they have neither the time nor the opportunity to find out what others are doing. The short and simple course is to deal with the others through him. Thus the Governor may be held responsible for many matters with which he personally had nothing to do. He may even be criticized for things he himself opposed. He may receive credit for achievements he neither planned nor executed. It matters not; he is the visible head of the state and the people are accustomed to look no farther. Clothed as he is with vast official and political power, he is expected to get results. What opinions he entertains, what policies he champions, what legislative measures he proposes, what ideas of economy and efficiency in administration he holds, thus become matters of vital concern, not only to him as an individual but to the people of the whole state. For his own success and for the welfare of all, it is desirable that he should avoid error wherever possible and seek out counsels of wisdom instead. In what better way may these objects be attained than by attendance at these Conferences? Here he and his fellow executives may find wise and safe guidance in the combined judgment and experience of all. By interchange of views and the free and frank discussion of state problems, such as we have had at every meeting, his opinions will be clarified, his convictions deepened and his purposes strengthened. At least I wish to say that such has been the result with me and I feel very sure my case is not peculiar.

The second function of this organization, as stated in the Articles, is "the promotion of greater uniformity in state legislation." This is a matter of the highest importance and significance, as we have all had frequent occasion to realize. But the subject is too well understood to require amplification. Let me observe merely that this idea did not originate with the Governors' Conference. Long before this organization came into existence the need of greater uniformity in the legislation of the several states had been considered by the American Bar Associa-

tion. Later the Commissioners on Uniform State Legislation and the National Civic Federation entered the field. But the Governors' Conference has an advantage in this matter not possessed by any of the others. Under our scheme of government the initiation of new legislation is largely a function of the executive. Here he unquestionably leads. In his messages to the legislature he is expected to outline a program of work for each session. The legislature may do more or less than he proposes. It may go faster or slower than he wishes. But whether it moves fast or slow, whether it does much or little, the line of march is laid down in the main by him; and, as a rule, he has the power to halt the column whenever he desires, by vetoing bills he does not approve.

This power to suggest and to condemn, though not absolute in any instance, makes the Governor a member of every legislature and attaches practical importance and grave responsibility to debate and deliberation here such as pertain to the proceedings of no other like organization; for out of these meetings go the men who are charged by law by settled practice with the formation of the public policies of every state represented here during the ensuing year. The opportunity thus afforded for the accomplishment of greater uniformity in statute law is unsurpassed.

The third stated object of these Conferences is "the attainment of greater efficiency in state administration." This is a technical matter in which experience is surely the best guide. Though the fundamental principles that should apply to the subject may be well settled, it is notorious that actual practice does not always conform to them. On the contrary, each state in a certain sense is an experiment station in which the problem of how to effect improvements in prevailing methods is being diligently studied. Each state, therefore, may learn from others and may in turn instruct the others. But to make experience along these lines helpful, there must be knowledge in every case of what is being done and of the measure of success or failure that attends it. These Conferences are unrivaled clearing houses for information such as this.

Added to all these express objects is the opportunity afforded here for acquaintanceship, social enjoyment, and growth in

friendship among our members. This, of course, is an inseparable incident to gatherings of this kind. It is a social or personal phase that alone is worth all the Conference costs. It promotes state comity; it facilitates the transaction of business between one commonwealth and another; it allays sectional prejudice and fosters good feeling. It quickens and deepens patriotism and love for the whole country. It tends to cement the several states that form this wonderful republic into a still firmer and more lasting union.

So, in the name of the people of Wisconsin, I greet you heartily and in their behalf I welcome you warmly not only to this beautiful capital city and to our public institutions of every sort, but to the homes and firesides of our people as well. They all want to know you; and they are willing to assist in making this meeting of the Governors' Conference a splendid and memorable success.

GOVERNOR BALDWIN—We meet this morning in one of the greatest states of the Union, a state with a history that is marked, particularly in its earliest stages, by its adherence to the old fashioned doctrine of state rights. We meet also in a handsome city that has grown up around this capitol, and we are to hear a word of welcome from his honor, the Mayor of Madison, Mayor Kayser.

### ADDRESS OF WELCOME TO MADISON

MAYOR A. H. KAYSER (of Madison)—Your Excellency, Visiting Governors, Ladies and Gentlemen: It is with great pleasure that I, representing the citizens of Madison, extend to you a most cordial and sincere welcome to the capital city of Wisconsin. We feel honored indeed that our city has been chosen as the place for this notable Conference, composed as it is of an unusually large number of eminent men in the fields of public activity, representing nearly all of the states of the Union.

You have gathered here for the purpose of consulting with each other, of studying how to develop the constructive machinery by means of which ideal state government can be achieved, of comparing and communicating ideas and experience that can be utilized for the solution of the many problems that are in-

volved in the administration of the trust placed in your hands by the people.

It is gratifying to know that your presence here was prompted by the spirit of co-operation of interests, and enthusiasm for social and public service, where talents are being used for the good of all and where earnest thought is devoted to the improving of conditions. A country full of enthusiastic workers can accomplish a wonderful amount of work along lines of permanent improvement, when the spirit is that of sincere interest and of wholesome co-operation. Each for *all* and *all* for each, is the keynote of success in well governed states where all are working together, heart, hand and head, for the honor and greatness of our country.

You have come to a state which is justly called progressive—progressive in its movement for real democratic government, in improving industrial and social conditions for its people, in educating its citizens, in developing its natural resources and in trying to give an equal opportunity to all its men and women. Our state has truly achieved a remarkable success along these lines of difficult endeavor, and Madison is honored in being the capital city of such a state. Our citizens are proud of our new capitol building, being built upon honor, a gift of the people to the state and of the state to its people which, when completed, will be a credit to the commonwealth and to the governors during whose terms it was constructed.

We are also proud of having our great university located here, an institution which has gained a world-wide reputation for itself and the men at its head.

It is noteworthy that at this very time, when all Europe is the scene of wretched suffering and horrible misery, we are living in peace and harmony and are honored by the presence of the leaders of this land, who are working shoulder to shoulder in peaceful endeavor for the good of the people.

It may be outside of my province to make mention of what questions will be considered by the Conference outside of those on the programs—one that should have consideration, however, and likely will, is the question of how to promote the development of the large areas of land contained in nearly all of the states of the Union, now unimproved, which should be occupied and improved.

We need not be envious of Canada's offerings in that line, but we should, and it is our duty to, jealously watch our own and guard against further loss of many of our best farmers to our northern neighbor. We should lend every effort to upbuild our states. Here is a great field for propaganda.

To you again we are proud to extend sincere friendship, true hospitality and a hearty welcome.

GOVERNOR BALDWIN—We shall remember, I am sure, the friendly suggestion of his honor, the Mayor of Madison, that all the governors of the American states can do to make America the place for Americans, keep them at home, it is their business to do. I was struck with sorrow at the results of the last census, which showed that one of the great states of the middle west had become stationary in population, or even receded, and, when I inquired the reason, I was told it was that to which Mayor Kayser has alluded, that they found Canada more attractive to them in its opportunities for farming and investment than Iowa. If we, as governors, can suggest to our states anything to make America still more attractive to its people, it will be our duty to do so, I am sure.

And now, having heard from the state and from the city, we are to hear a word from the head of the great University which, as Mayor Kayser has justly said, is known throughout the world. No other university, to my knowledge, exercises anything like the influence over the state where it has its seat, as that of the University of Wisconsin. And we will now hear from the President of the University, President Van Hise.

### ADDRESS IN BEHALF OF UNIVERSITY

PRESIDENT C. R. VAN HISE (of University of Wisconsin)—Your Excellencies, Ladies and Gentlemen: It gives me great pleasure, upon the behalf of the University of Wisconsin, to welcome you to Madison. I hope that during your stay here you can find time to visit the University and see the men, and see some of the buildings. We shall be glad to make arrangements that you may do this, either individually, or in groups, as you may desire. If each of you will make known your wishes in this

regard to the secretary of the Conference, Mr. Riley, he will convey the information to us, and proper arrangement will be made to enable you to see that part of the University in which you are most interested, or to take a shorter trip throughout the entire institution. It has occurred to me that there may be certain departments in which you are especially interested, some of you, and that you would wish to study these departments more closely. For such a group arrangements will be made. Meanwhile, if you wish to make a journey together, or in a large group, rapidly, through the grounds and buildings, for two hours, or for an afternoon, arrangements will be made in accordance with those wishes. Whatever is your desire is our most earnest wish, and we do hope that you will take advantage of this opportunity to see something of the University before you leave Madison.

While I am before you I wish to have five minutes to discuss a subject which is, I think, of interest to us all. And that is the relation of the State University to the State. There have arisen in this state misconceptions in this matter, and I am aware that the same questions have arisen in your own states, or at least in some of them. These misconceptions and misunderstandings have usually arisen because of lack of clear thinking. By some it is said that the State University of Wisconsin is in politics. The difficulty with that statement is that it lacks definition. During the campaign just closed, this charge has been ignored by the university; but now that the elections are over and participation in the discussion can in no way be regarded as participating in politics, I shall consider the principles involved in this case; since a similar situation is sure to arise in those states of the country where there are state universities.

The charge that the University of Wisconsin is in politics is without a particle of foundation, for the challenge has frequently been made and is now repeated to specify a single instance in which the university has interfered in politics, either directly or indirectly. The university has never been organized in favor of any political party or faction of a party; nor has there been any attempt so to organize it. No body of men would be more quick to resent such an attempt than the faculty of the university, men of independent spirit, who are divided in their political

sympathies among all parties and different groups of the parties. The students would be as ready to resent the attempt at such organization of the faculty. This autumn there were clubs among the students, representing the republican, the democratic, the prohibition, and the independent parties; and all alike had the same opportunities as student groups to hold their meetings in university buildings. Not only has the university not been organized for any political purpose, but never during the past twenty-five years has an appointment in the university been made in relation to politics, either in the faculty or on the business side. No instance of this kind has even been suggested.

Having made it plain that the university is not now and never has been in politics, I might close; but if I did so it would not be clear how the misconception mentioned at the outset of my remarks has arisen. The misconception has been due to the fact that there has been no discrimination between interference in politics and freedom in teaching. The university in its teachings and investigations has no "sacred cows." There is no domain of knowledge which it may not enter. Therefore it has departments of political economy, political science, history and sociology; and these are virile departments, alive to the last event in human progress. The men in these departments teach the truth as they see it in regard to subjects concerning which there are differences of opinion. This may be done for different mathematical theories without comment, but for the modern humanities the same breadth of view does not everywhere prevail. The University of Wisconsin is free and has been free for many years. Twenty years ago this liberty was challenged in the case of a professor of political economy; and at that time the regents made a declaration of principles concerning teaching which from that date has been recognized as fundamental doctrine in the University of Wisconsin.

While there must be freedom of teaching and investigation in the subjects of political economy, political science, history, and sociology, the attitude of the professors should be that of judges and not partisans or advocates. The different opinions held concerning a subject, with the reasons which support them, should be presented. This done, a professor is free to give his own opinion. This principle is vital in any university. Concerning it no compromise should be made.

Another current statement relating to the university is that professors have attempted to control legislation, but this the university has scrupulously avoided. To guard in this respect, the regents in 1913 voted "to authorize the president of the university to permit members of the university staff to appear before committees of the legislature in regard to bills which concern education or investigation related to the work of the university, but only in the capacity of experts and not as representatives of the university."

This action was taken rather than that the regents might have knowledge of what was being done than to forbid professors from going before committees. A professor has the same right to take part in a public hearing before a legislative committee as any other citizen. While this is indisputable, in most cases where professors have appeared before committees, they have done so upon the invitation of the committee rather than through their own initiative. Thus when the question of the drainage of swamp lands is up, it is natural that the legislative committee having the matter in charge should ask the department of soils to send members of its staff to the committee to give information concerning the subject. Similarly, in regard to weed eradication, it was natural that professors in the agricultural college should be called. Cases of this kind have never been criticized. But when the question of the establishment of a railroad commission or an industrial commission arises, it is clear that the legislative committees have the same right to call upon the professors of the university, if they so desire, as they have in a subject related to applied science.

While everyone will doubtless concede the reasonableness of the proposal that the professors should be free in teaching political science and sociology, it is sometimes said that they are likely to be too radical. It is doubtless true that men who are advancing knowledge in the subjects which they profess are likely in certain cases to be somewhat in advance of the development of public opinion; but if a university were not free to assist in conservative and careful advance, it should not be worthy the support of a free democracy.

If you will forgive a personal illustration, I may mention that somewhat more than two years ago, before the beginning of the



presidential campaign of that year, I published a book called "Concentration and Control, a Solution of the Trust Problem in the United States." At that time the ideas of that book were considered radical; and its fundamental purpose, to control big business through a trade commission, was denounced by the two dominant parties; but so rapidly did this proposal win favor in the country, that in February last I was asked by the United States Chamber of Commerce, composed of representative business men, to present my views at the annual meeting of the chamber held in Washington. The ideas offered were so favorably received that, although not a member of the chamber, I was asked to serve upon the committee to present the program of the chamber regarding trust legislation to the committees of congress. This I did, and since that time I have been asked to speak upon trust legislation to many chambers of commerce in the larger cities of the United States.

The control of big business by federal trade commission has now become a national policy, being enacted into law at the last session of Congress, with the almost unanimous support of both of the great parties. The radicalism of two years ago has become conservatism to-day.

The foregoing statement makes clear the principles which should apply to the relations of a state university to the state. The state university should not organize or attempt to organize in favor of any party or faction. It should not attempt to control legislation. It should be free to teach and investigate all subjects in which the people are profoundly interested. To do the first two would be to engage in politics; to do the last is a fundamental necessity for an institution bearing the name of university, and this is not engaging in politics. The failure to make this distinction has led to misunderstanding in this state which should here be cleared up and which should be avoided elsewhere.

The principles involved once made plain, I have no doubt will have the support of the great majority of the people of every state. The people of no state would wish their university to attempt to control the political affairs of the state or to control legislation; the people of no state would tolerate interference with freedom of teaching and freedom of investigation by the university in the service of the state.

These views I trust will appeal to the governors here assembled as sound and wise. I hope that they will support the state universities in their respective states in judicious freedom of teaching and investigation, and at the same time exercise watchful care that they do not participate in politics.

GOVERNOR BALDWIN—I am sure we have all been interested in the spirited presentation of the measure and fine character of the state university which has just been made before us by President Van Hise. We thank him for his kind offer to make us familiar with the university by inspecting its buildings and work. And let me say, as one who is interested in the line of our contribution to history, that when we go to the university campus, if we go, we ought not to forget the magnificent library which, though founded by the state, is under the shadow of the university. I was talking only last week to a friend of mine from a southern state, in the Old Dominion, who said that he was surprised, in going over the State Library of Wisconsin to find more manuscript and early material in regard to the Colonial Era, as to Virginia, here in Madison than he could find at Richmond.

We are to have a response in our own behalf, as Governors, to the kind words that have been addressed to us by others, by one of our members, Governor Carey of Wyoming.

### RESPONSE BY GOVERNOR CAREY

GOVERNOR CAREY (of Wyoming)—Governor McGovern, Mr. Mayor, and President Van Hise of the State University: I know all the governors present, the governors-elect and the former governors, will highly appreciate the hearty welcome extended to them to-day. It is very profitable I think that we should meet in this central northern state. This Conference, since its organization, has met on the seaboard, has met in two of the border states, and has met in the extreme—you may say one of the extreme Rocky Mountain states, Colorado. Now, I think it is very profitable that we should meet in this city, in the state of Wisconsin.

Wisconsin—you probably do not appreciate it—though not yet three-quarters of a century old, is an average state of the

American Union,—average in population, in wealth, in intelligence, and in industries. What will she be when she has rounded the centennial mark? If her advance continues as it has been going on during the two or three late census periods, she will have more wealth, she will have more industries, she will have, I may say, more intelligence, than some of the nations to-day in Europe that are engaged in a great struggle. She, I believe, is pursuing the right course; probably extreme in some things. The pendulum, you know, is apt to swing a little too far, but it will come back to the right point. She is educating, in a certain sense, the rest of the people of the United States.

She learned early that to cultivate the soil and cultivate it yearly would wear it out, and so she has branched out and got into another industry, the chief industry of the state and greater than that of any other state—I mean the dairy business—so that she keeps her food at home, she feeds it to stock, she makes cheese and butter. In this respect Wisconsin, not one of the richest states in soil, has become one of the most important of the dairy states of the American Union.

She has done another thing that I think it will be well for all the states to take example from, she is raising her money as she goes along. This beautiful capitol is being built with the money collected from year to year, not going on the theory that the future generations pay for what we are doing to-day. A state out of debt! A state that has kept her finances in magnificent condition, not leaving an indebtedness as a heritage to the boys and girls who will hereafter become the successors of the people of this state, and who will have to take up the work that is left from to-day.

Wisconsin has also advanced in her legislation. I suppose Wisconsin has more commissions of various kinds than any other state in the Union. Probably she has gone to the extreme in this respect. But we are all profiting by it. We are all learning by what Wisconsin is doing. While many of the things she has undertaken are experiments, yet we will profit by the experiments. The rest of the states are to-day considering: "What have they done out in Wisconsin?" She has always been in the lead of all of the western states. You know if we study the question we will find the people in the colonies have been in ad-

vance of the people in old settled sections. It is not so hard to get away from old things, and they have courage, and they are willing to take the chance of doing new things, and, for that very reason, we can say to-day that the best ballot system that has ever been inaugurated was inaugurated in Australia, and if we would only leave it alone, accept what they perfected, we would hear fewer charges of fraud in our elections and we would find less dissatisfaction expressed by the people. The fact of this ballot being absolutely secret as to how the individual voter votes, unless he wants to tell it himself, is the greatest incentive to do the right thing; it is the greatest incentive to independent voting, and not to vote because you call yourself a progressive, a democrat, republican, or a socialist, but to vote your convictions and when you see the name of a man on the ballot you select that man if you consider him best to perform a given duty.

Now, I say these things are going on and we are working them out, and I think every man who has had anything to do with politics will say that though we speak of imperfection in our system, of corruption in our system, that we are ten times better off in this respect than this country was twenty-five or fifty years ago. We are advancing, and, as our intelligence increases, as men begin to think about these things, we do better and better all the time, and I believe that we will reach in these matters just as near perfection as you can reach in any human affair.

Now, when I speak of Wisconsin being average, of course you understand by that that there are greater states, states of more wealth, more population, and many of less population. Yet she, keeping the average of the forty-eight states, makes us all realize how great we are when we speak of the forty-eight states that compose the American Union.

The object of this Conference has never been, as I understand, to resolve to do something. It has been a Conference for discussion, to make impressions, for each governor to give his own experience, for each governor to inquire of some other governor: "What has been your experience so far as these matters are concerned?" The result of it has been that we go home with new impressions and new ideas. When we came here we knew nothing about the workmen's compensation act, we knew nothing about rural credits, we knew nothing about the uniformity of

laws. These questions have all been discussed. We have talked about marriage and divorce. We have tried to arrive, so far as our individual convictions are concerned, at a conviction that should possess all the governors, so they will be enabled to go home and tell their legislatures what they believe to be best for their state, tell what is taking place in other states, with a view of bettering the conditions in the state, because I believe to-day the tendency of the American mind is the uplifting, the building up, the making of the people better than they have been heretofore.

Wisconsin in another respect probably is the leading state in the Union. A great educator of one of the New England universities recently said that the University of Wisconsin was the best of all the state universities. Have you ever thought of the work they are doing? They may go wrong sometimes; a false idea may be promulgated by a professor, but when you think of five or six thousand students receiving certain impressions, being made ambitious to cope with their fellows in this country, what an influence it has, and when you think, best of all, that Wisconsin is broad enough and liberal enough, in the very start, to give her daughters and sisters the same opportunity they give their boys, you must be inspired. We meet that in the west, where we are appealing all the time for population; find educated men, educated women, who boast of the fact that they went to the University of Wisconsin, or Michigan University, or Nebraska University. These state institutions are doing wonders, and none is doing more good than the University of Wisconsin. When I heard the chairman of this meeting speaking of the University of Wisconsin, I thought of the great university in his state, founded by Eli Yale, how much it has done for the country. You go anywhere or everywhere, and you find graduates from Yale. We find them too from Harvard, and from this great institution in Wisconsin. We are all patterning after you. We have a growing university in our state, young, not a great many students, less than four hundred students, yet becoming liberal, just as free for the students outside the state as those in the state; no extra charges. They claim we have representatives to-day from forty eastern cities, even out in that young state. Some have gone out there because of the climatic conditions. Some have gone out there to learn what we are

doing in the west. Boys ambitious to get a footing in the west—start out by going to the University.

So all of these things are making a very great impression. Three years ago at Spring Lake I referred in a jocular way to those sitting in that Conference who were aspiring to be president of the United States. I told them not to pray too hard for the lightning, as it would strike but very few of them. But I have thought of that since. There were two governors present at that Conference who are to-day president and vice-president of this great nation. I believe I see some of the governors here now putting up their lightning rods. I think Governor Fort is present trying to get us back to Spring Lake, but you know the lightning that strikes most in that state is Jersey lightning. They are making presidents to-day all over the United States, but you can mark it as a certainty that the governor has the inside track on the presidency always. Excepting the Civil War heroes, nearly all of our presidents have been governors or former governors, or men who have run for the office of governor. So I want to advise you who have been elected to keep up your lightning rods, remembering, however, that many will be called, so far as your minds are concerned, but few will be chosen.

Now, in conclusion, I hope that we who go out—and the most of us go out—will feel like coming back and seeing our old friends, because it has created among us a very tender and a kind feeling. In this body there has never been any expression of politics. We have forgotten to what political party we belong or have belonged. We are for each other, and I hope we will come back. And I want to say there is one former governor present, Governor Fort of New Jersey, who has, I think, been present at every session. He doesn't forget. He comes back, and he has been just as welcome and we have been just as glad to see him as if he were still in the executive chair. I hope we may come back, the Conference is open to us, it is free to us, I hope some of us at least will get into the habit of coming, so as to meet you, not only the older men who have been here, but the younger men as well.

Now, in conclusion, Mr. Chairman, I know that everybody present is very grateful for this warm reception tendered to us by the state, the city and the university.

GOVERNOR BALDWIN—What Governor Carey has said in regard to all of us, and in behalf of all of us, nothing seemed to me more correct than his remark as he opened that we exerted an influence but we dictated no policies, we passed no resolutions or endorsements of this or that or the other. I believe that much of the good of this Conference, much of its promise of permanency, comes from the simple fact that we are here to confer, not to legislate.

Reference has been made to the commission on uniform legislation organized under the auspices, originally, of the American Bar Association, followed up by suitable legislation in New York. It seems to me that we must always bear in mind that there is a body permanent in character, largely permanent in the character of its membership, having trained experts to deal with questions of legislation, and more likely, I venture to think, to mould its statutes in workable, practical shape than we would be if we undertook to pass statutes during our more irregular meetings, and the meetings of a body of less permanent character. No statute is passed by the commission of the states on uniform legislation which is not reported from the committee, which has done both paid and unpaid work. Some expert is employed to draft the statute in its final shape, and is paid for it, and I believe that unless something of that sort is done legislation emanating from anybody will be apt to be more or less unsatisfactory. But, in marking out general lines of progress, in conferring on the general drift of modern scientific ideas, we are doing our best work, and it is good work.

Now, gentlemen, the formal business set down for the morning is over. This is a flexible body and is free to do any business it likes any time that it likes. Has any gentleman any matter that he desires to bring before the Conference? If so, whatever that matter is, there is now an opportunity. The Chair will venture to suggest that among other things it is desirable to fix a time for our re-assembling this afternoon. Has the committee any recommendation to make on that question?

GOVERNOR MCGOVERN—Mr. Chairman, I move that when we adjourn we adjourn until 2:30 o'clock this afternoon.

GOVERNOR CAREY (of Wyoming)—I second the motion.

GOVERNOR BALDWIN—The motion is that when we adjourn we adjourn until half past two this afternoon. Those in favor of that motion will say aye; contrary minded no. The motion prevails.

Is there any further business to be brought before us? Now is the opportunity. If not, we will adjourn now.

The Conference adjourned until 2:30 P. M., November 10, 1914.

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## AFTERNOON SESSION

The Conference was called to order at 2:30 o'clock p. m., by Former Governor John Franklin Fort, New Jersey.

FORMER GOVERNOR FORT (of New Jersey)—Gentlemen of the Conference,

I greatly appreciate this compliment. It comes as a very great surprise. I had no anticipation that any of the guests would be asked to preside over your deliberations. For that reason I appreciate it all the more.

This Conference to me, as one of the older members of it, is one of the places of supreme delight. Looking back over my term as governor of New Jersey I count nothing in all that time of as much consequence to me personally as these Governors' Conferences were. The personal association and personal acquaintance and the general instruction which I received at these Conferences will abide with me long after a great many things I had to do as Governor have been forgotten. I believe this is a great institution in the country, and hence have tried to keep up my interest in it. If all the governors would return after their terms, or as many of them as can, the mere fact of the acquaintance of the new men that come into office of itself would be unquestionably of uncalculable benefit to us as citizens, and, may we not say truthfully, as public men in the Nation. Of course, in my state I had to come back as a former governor, even though I might have desired to come back as a governor, because our constitution



prohibits re-election of a governor, and hence I had the gratification of feeling I was not defeated for re-election. What might have happened if I had had the privilege of running I do not know. I might have come back here simply in a different situation.

I thank you, gentlemen, for this compliment. It is a very great compliment to me and I appreciate it. Unless there is some business of another nature, the afternoon program consists of one paper with, I suppose, discussion to follow. The paper this afternoon is the report of the committee on rural credits. I shall not forget the Conference at which rural credits was discussed, either the paper that was read by Governor O'Neal, which was a most admirable one, or the discussion by the present ambassador to France, Former Governor Herrick, and I think one other discussion, I have forgotten now just whom it was by. Most of us had, up to that time, I imagine, not given much thought to the question of rural credits, and the very exhaustive paper of Governor O'Neal read at that Conference has been a matter of great education to me at least, and I have read it over once or twice since, and the subject is now becoming very acute and is before the legislatures of about all the states. Governor O'Neal of Alabama will now present his paper, or report.

## REPORT OF COMMITTEE ON RURAL CREDITS

GOVERNOR EMMET O'NEAL OF ALABAMA.

At the meeting of the Governors' Conference, held at Richmond, Virginia, a committee of twelve Governors was selected to prepare bills providing for the establishment of cooperative land mortgage banks, cooperative rural credit unions and similar organizations devoting their attention to the promotion of agriculture and the betterment of rural conditions.

By the terms of the resolution, these bills, after their approval by two-thirds of the Governors, were to be submitted to the legislatures of the several states.

At the last meeting of the Governors' Conference, it was agreed that the committee delay making any report until the commission,

then visiting Europe, appointed by the different states and different provinces of Canada, known as the American Commission, and the United States Commission appointed by President Wilson, who were then engaged in investigating and studying in European countries cooperative land mortgage banks and cooperative rural credit unions, had returned and submitted their report. It was impossible to secure a full attendance of this committee, but at the meeting held at Colorado Springs, a majority of the committee, after full consideration, agreed that it would be impracticable to present any specific bills in reference to land mortgage banks and cooperative rural credit unions, but would, at this meeting, present a report declaring the fundamental principles which in our judgment should control legislation on these subjects.

Since their return, the commission which visited Europe, has published a vast mass of valuable information, obtained as the result of their investigation and study of the subject of agricultural cooperation and rural credits in Europe. Their reports and recommendations have been made public documents and contain the most valuable and complete discussion of this subject which has ever yet been compiled.

One of the results of the agitation in favor of agricultural finance or rural credit was that the three great political parties in their platforms in 1912 fully indorsed the movement and demanded the enactment of suitable legislation to carry it into operation.

In the address which the President of the United States delivered to the joint session of the two Houses of Congress on December 2nd, 1913, he called attention to what he termed was the urgent necessity that special provision be made for facilitating the credits needed by the farmers of the country. He expressed the view that legislation in accordance with the platform and the demand of agriculture should be enacted at an early date. As the President stated, "The pending currency bill," which has since been enacted, "does the farmers a great service, by putting them upon an equal footing with other business men and masters of enterprises as to certain lines of credits." Since the President's message a sub-committee on rural credits, of the Committee on Banking and Currency, both of the House and Senate,

have been engaged in conducting an investigation of this subject and have examined a large number of witnesses and their hearings have been printed. About twenty-two bills have been introduced in the House and Senate which were referred to the sub-committees mentioned and the sub-committees on rural credit of the House and Senate held joint hearings with Senator Hollis, as Chairman, and finally reported the Hollis-Bulkley Bill, which was referred to the Committee on Banking and Currency of the two Houses and since which time no further action has been taken.

The United States Commission on Rural Credits made an exhaustive report on land mortgage or long-term credit, embodying their views and recommendations in a bill which was introduced in the House by Mr. Moss, of Indiana, and in the Senate by Senator Fletcher, known as the Fletcher-Moss Bill and which bill expressed in a definite, concrete way, the views of that committee as to the character of legislation which ought to be enacted.

There were two forms of agricultural credit which the United States Commission discussed, to-wit: long-term or land-mortgage credit, or short term or personal credit. Of those two systems of credit, long term or land-mortgage credit, was necessarily based on security of the land owned by the farmer; short-term or personal credit, was to provide for the farmers annually occurring requirements in money to finance his operations during the time when the crops were being produced and embrace the financial needs of the farmer for preparing his land, sowing and cultivating his crops and harvesting same. In their report the United States Commission stated that the development of a system of farm land banks was the most important and primary step to be taken to improve agricultural credit conditions and naturally preceded the development of personal credit. They state that the history of European experiment has shown that the land mortgage banks preceded the personal credit banks. The committee declared that it was urgently necessary to create a land mortgage security which should be entirely liquid, by reason of having a ready market, which in their language: "Will run for a long time, which can be paid off in small annual or semi-annual installments and which will enable the land-owning farmer to use most advantageously his best banking asset, land, as the basis of credit."

As Senator Fletcher states, "The Hollis-Bulkley Bill embraces the main features of the Fletcher-Moss Bill, with some change in respect to administration and with some additional features." This bill places this system of agricultural finance under the control and direction of the Federal Reserve Board. It is well to recall that the Federal Reserve Act does, to some extent, provide for the needs of the farmer, by repealing the old law prohibiting loans on real estate by national banks and by making available a certain portion of the surplus and reserve for six months loans on real estate. As Senator Fletcher states in a personal letter, "This will help to some extent, but when we remember that it would probably only make possible the use of some two hundred and fifty million dollars, whereas the farmers owe something like six billion dollars, on which they are paying twice as much interest as they ought to pay you can see it does not solve the problem."

#### STATE OR FEDERAL INCORPORATION.

An important question that confronted the United States Commission was whether land mortgage banks should be incorporated by the states or the Federal Government. The minority of the American Commission were inclined to advocate that such land mortgage associations should be incorporated under state charters and that after a sufficient number of states had built such a system to a point of successful conclusion, to advocate federal legislation looking toward federating the state central banks. It was recognized that mortgage credits necessarily deal with lands and that the laws affecting lands are state laws and that those laws governing conveyancing, registration, foreclosure, exemption, taxation and other subjects relating particularly to land are under state control and different in various particulars in the forty-eight states of the Union. The difficulty, therefore, of securing uniformity of laws in respect to the different methods of conveyance, registration, foreclosure, taxation and exemptions, which prevail in the different states was obvious. The committee appointed by the United States also recognized that all efforts which have heretofore been made to secure uniformity in laws governing negotiable instruments, divorces and in other direc-

tions, has been a process of slow growth. They therefore reached the conclusion, that through a federal incorporation of farm land banks the problem would be simplified and uniformity of state legislation can be advantageously had along the lines contained in the bill which they submitted. The question, therefore, was, that as the states control the laws in reference to lands how could a federal incorporation of farm land banks, under national charter, secure a uniformity of state legislation? This was undertaken to be accomplished by providing that the state farm land banks could not enjoy the privileges and advantages vested in the federal land banks until the states had passed certain laws or regulations looking toward uniformity and looking toward simplification of laws regarding land titles. In other words, both the Moss-Fletcher Bill and the Hollis-Bulkley Bill provide that state farm land banks cannot be incorporated under the Federal laws or enjoy the privileges and advantages which such charters might confer without first securing state legislation simplifying registration of titles, foreclosure of mortgages, abolition of taxation on mortgages and several other essential requirements tending to uniformity and efficiency. Under the provisions of these bills, the commissioner of farm land banks, an office created by the several bills, is given the power to make general rules with the approval of the Secretary of the Treasury, extending the privileges of certain of them only to farm land banks in states which passed laws or regulations looking toward uniformity in certain essential particulars, to banks in these states which have done away with exemptions as regards farm land loans, which have simplified methods of registration, conveyance and foreclosure and other banks in those states which have made national land bank bonds available as a local investment for the funds of savings banks operating in that state, for trust funds under control of the courts of the state or local investments for reserves of insurance companies operating under the laws of that state.

With the passage of laws of this character, the members of the United States Commission believed that the national land bank bonds would become a recognized and authorized investment for funds accumulated in State Savings Banks, in the reserves of insurance companies, in the savings bank department of the

national banks and in the postal savings banks, and be vested with all features of a security of the highest class, giving the farmer access to the greatest accumulation of capital in the country. Your committee indorses these views. They believe that while the states may proceed independently to incorporate farm land banks, that a general law on the lines suggested by the United States Commission and outlined in the Moss-Fletcher Bills should be adopted by the federal government, and would tend to secure greater uniformity and harmony in the laws of the states on this subject and standardize and simplify farm land mortgages.

Such legislation will tend to secure uniformity in state laws relating to land, will encourage a wider and a more general use of farm land bonds, will simplify methods of procedure, will secure more general confidence in the value of such securities, will accomplish the chief purpose of mortgage credit by making the farm lands of the nation a liquid asset and thereby furnish the means by which, in the language of the President, "The farmer may make his credit constantly and easily available, and command, when he will, the capital by which to support and expend his business."

#### UNIFORMITY OF STATE LEGISLATION.

The successful operation of such laws as have been proposed for the federal incorporation of farm land banks necessarily requires greater uniformity in state legislation than now exists as to the registration of titles and conveyance of lands, foreclosure of mortgages, taxation of mortgages and exemptions.

#### TAX EXEMPTIONS.

In the European countries, where land mortgage banks have been so successfully operated and where the farmer has secured the lowest possible rate of interest, the securities are absolutely free from taxation. The American Commission and the United States Commission and all authorities on the subject agree that exemptions from taxation is essential if a low rate of interest on mortgages is to be obtained. It cannot be denied that taxation

by a state of the mortgage and of real estate on which the mortgage is based is double taxation. It is obvious, that whatever promotes agricultural development and progress adds to the general welfare, that freedom from taxation would materially lower the rate of interest on mortgages and the debentures which may be issued on their security and to that extent lessen the cost of the funds to the farmers.

The lands of the farmer being visible and easily accessible never escape taxation. It can be asserted with confidence that the farmer pays more taxes in proportion to his property holdings than any other class of our citizens. Under every system of taxation, the most acute and important question is not how to reach the land of the farmer, but by what method that vast mass of property known as intangible or invisible personal property can be subjected to taxation and made to bear its just proportion of the general burden.

#### LAND TITLES EXEMPTIONS AND FORECLOSURES.

In Europe, the states usually guarantee the land titles and the laws chartering mortgage banks usually grant a special process of foreclosure. It is stated that there are no exemptions of homestead rights granted by law. It is therefore evident that the most important consideration in the successful operation of any system of mortgage banks are titles to the land, exemptions from execution and legal provision for foreclosure in default of payment. Under our form of government, all these questions are under the control of the states. On this subject the United States Commission very properly declares: "It is against the best interests of the general public to have possible legal disputes over the ownership of lands. The loss incident to such uncertainty falls primarily on the land-owner but in the end this loss is transferred to the general public because the food and shelter of the nation is secured upon the soil." It is therefore incumbent upon the states that wish to secure advantageous sales of their land mortgage securities at the lowest possible rates of interest and to enjoy the privileges and advantages conferred by the proposed federal land mortgage act, to adopt some system for registering or guaranteeing land titles. Your committee, therefore, recom-

mends the adoption of the essential features of the Torrens System of land title registration or some simple method of insuring land titles.

It is well known, that the first acts which were passed in the United States introducing the Torrens System, were declared unconstitutional, but acts which were subsequently passed successfully withstood attacks on constitutional grounds.

Devlin on real estate, has declared, "That acts placing this system into operation can be drawn so as to be free from any constitutional objections, as it is a well recognized principle that a state has the power to provide for the adjudication of titles within its limits."

#### PURPOSE OF TORRENS SYSTEM.

The object of the system is so clearly stated by this author that we quote fully what he says:

"The object of the system is, first, to secure by a decree of court or other similar proceeding, a title which shall be impregnable against any attack, and, when this title is once determined, to provide that all subsequent transfers, incumbrances, or proceedings affecting the title shall be placed on a page of the register and marked on the memorial of title. A purchaser may accept this memorial as truly stating the title, and may disregard any claim not so appearing. In the states of this country adopting this system, the owner has the option of registering his land or he may proceed under the old system, but, the statute provides that, when a tract of land has once become registered, all transfers made subsequently shall be in compliance with the provisions of the statute. After the initial registration of the title, there is notice on the face of the certificate of registration of any matter affecting the title. The object is to secure the evidence of title exclusively by a certificate issuing from public authority. In some statutes an indemnity fund is provided for the payment of any loss sustained by the operation of the system, and such an indemnity fund, while not in some of the statutes, is an integral part of the system."

It has been suggested that bills providing for the voluntary registration of land titles would be of material service. Abstracts



of titles are being constantly made and at considerable expense. They are soon misplaced or lost and the expense incurred wasted. Under proper regulation, laws could be enacted providing for the registration of these abstracts of title, which should be made only by some authorized licensed abstract company. It would therefore place but little additional cost on the land-owner to have his abstract completed to date when a mortgage or sale was contemplated. In the preparation of such a bill the present laws of Massachusetts, New York, Ohio, Illinois and California should be carefully studied. Your committee will suggest the advisability of the appointment of a sub-committee to draft some simple form for a deed of conveyance as well as mortgage, to be submitted to the legislatures of the different states for adoption, as well as the Torrens System of local title registration.

Uniformity of state laws on this subject would largely tend to simplify land titles, lessen the expense of registration, minimize litigation and make land titles more certain and secure.

Laws of the states in reference to foreclosure of mortgages should also be simplified. In Alabama, as an illustration, the mortgagor, his vendee, junior mortgagee or assignee or heirs-at-law, are vested with the statutory right of redemption within two years after the sale of the property.

While the purpose of these statutes was to protect an improvident debtor, its effect is to lessen the value of the security and increase the interest on the mortgage. If defaults occur in the payments of the mortgage it is imperative for the protection of the bank which has guaranteed the payments to the holder of the collateral trust land mortgage bond, that there should be some simple and speedy method of relief. If the laws permit delay and litigation the value of the security would be lessened and banks will be disinclined to guarantee payment to the holders of the land mortgage bonds. It is therefore essential that the laws of the states affecting land titles and transfers should be simplified and unified and that the system of appraisement of land values should be so rigid as to inspire everywhere unquestioned faith in the valuation.

Laws granting a statutory right of redemption, wherever they exist, should be repealed as far as farm mortgage loans are concerned, if the lowest rates of interest are expected to be secured

and farm land mortgages to be made rapidly negotiable and saleable.

The Secretary of Agriculture has suggested that to supplement existing facilities, as well as those contemplated under the federal laws in the interest of mortgage credit, that the formation and registration of savings and loan associations adapted to the farmers' needs should be authorized by suitable states in the various states. He states that: "Local associations, such as the First Rural Loan and Savings Association, of Lebanon, Indiana, the association in Shelby county, Ohio, or the Catawba Rural Credit Association of Hickory, North Carolina, suggest different plans, which should be authorized under a liberal statute in order to meet local needs, at the same time, safeguarding properly the interests of all concerned through adequate systems of inspection."

Your committee most heartily indorses the wisdom of these suggestions and would recommend the appointment of a sub-committee to prepare a suitable bill on the subject.

#### THE LANDSCHAFT.

Dr. David Lubin, an eminent authority on this subject, criticises the Moss-Fletcher Bill and similar bills, on the ground that they are all, in substance, plans for mortgage banks by bankers instead of being co-operative mortgage associations, operated for farmers by farmers. Dr. Lubin is of the opinion that the most adaptable plan and one allowing the wisest application in the United States would be the Landschaft System, providing, as he states, "That it be introduced in the United States with all the safeguards that surround it in Prussia." Your committee, however, is of the opinion that in any federal legislation on the subject providing for long-time mortgage loans it should be optional in the establishment of farm land banks for the organizers to make those banks, first, joint stock, second, co-operative; third, if co-operative, with unlimited liability.

As one of the members of the United States Commission states: "It was thought best to provide these options, because it was believed that no one system in Europe could be adapted for the United States that would be suited to all parts of the country

and to the various conditions that prevailed in different sections. "The bill," he declares, "however, provides for the basic features of rural mortgage banking as successfully practiced in European countries." The committee concurs in the statement of Dr. Lubin, that the Landschaft System must be safeguarded in the United States by state and national laws and administered as rigorously as in Prussia, or we can have no Landschaft System in the United States.

#### GOVERNMENT SUBSIDY.

In the wise words of the president, "The farmers, of course, ask, and should be given, no special privileges, such as extending to them the credit of the government itself." The establishing of a wise, just or successful system of land mortgage banks can be accomplished without direct federal aid, without subsidies or loans. With just and liberal enactments, properly safe-guarding the lender, with rigid appraisement of values, with a simplified system of land title registration or insurance, the savings of the nation will gladly invest in these securities. No farming investment can be made more attractive or secure.

Bills which seek direct federal loans are unwise and will only delay or jeopardize the success of legislation on this subject.

Your committee indorses the views of the United States Commission when they declared, "It is wise legislation, rather than liberal appropriations or loans, which rural credit mostly needs at our hands."

As regards the problem of widening the market for mortgage securities, it has been suggested that the important need is the type of centralized institution that inspires such confidence that it can market mortgage securities to advantage. Such central institution is provided by several of the bills now pending before the Banking and Currency Committee.

Your committee indorses the further suggestion that such securities should not be limited to debenture bonds resting on farm mortgages but should also include ordinary mortgage notes, so that the institution could utilize either in the light of the market demands.

Your committee also indorses the further suggestion that local banks and other institutions might be advantageously used for the indorsement of the mortgage paper accepted by the more centralized institution.

#### AMORTIZATION.

The method of amortization payments constitutes the most distinguishing feature of all European systems of land mortgage credit. The duration of the loan is determined by the rate of amortization, the interest charge being fixed by the market value of the bonds and the cost of administration. In the opinion of the committee, no successful system of land mortgage banks can be operated in the United States which does not provide for this system of amortization. All legislation, state or national, on this subject should provide a method of repayment, known technically as "amortization."

We should not overlook the fact that the fundamental principles, upon which the success of a proper system of rural banks, either for personal credit or loans on farm mortgages, are that they be conducted not for profit, not to earn dividends for shareholders, but solely in the interest of the borrower. The borrower and not the stock-holder, should be the chief beneficiary of the success of any system of land mortgage banking.

There is one underlying and fundamental principle which should never be overlooked in any legislation for the establishment of banks for the extension of personal credit of farm land mortgage banks and that is, that the money loaned should be devoted alone to productive purposes.

Your committee attaches, as a part of this report, the comments of the Secretary of Agriculture, (Exhibit 1) on the bill proposed by the United States Commission for the establishment of a mortgage banking system.

The secretary's comments are so clear, logical and illuminating and his conclusions are so wise, that we are of the opinion that it should be carefully studied by those who wish to secure a clear comprehension of the proposed federal legislation.

Your committee further concurs in the suggestions of the secretary that two things should be insured by proper supervision,

1st, that loans should be made only to bona fide farmers; 2nd, that the enterprises for which they borrow the money should be productive in character or a provision covering both points to this effect; that the money shall be used only for productive purposes on the farm covered by the mortgage.

Your committee concurs with the secretary that the proposed legislation should, as far as possible, eliminate loans for speculative purposes.

#### PERSONAL OR SHORT-TERM CREDIT.

In the conclusion of the report of the United States commission on this subject, they used the following language: "Your commission believes that it is also within the power of Congress to pass laws providing for credit unions or co-operative credit associations and making them fiscal agents of the national government; but the conditions of agriculture differ so widely, the needs of the farmers vary so greatly and the status of different people in rural communities are so unlike, that it is our opinion that such laws can best be enacted by the various state legislatures." Your committee concurs in this conclusion.

It is our opinion, therefore, that the various states should adopt suitable legislation, authorizing farmers to co-operate for the improvement of their personal credit. It is true that credit unions might be organized in most of the states of the union without specific legislation, as they were organized in many European countries. These different forms of rural credit banks are very elaborately discussed in the address which your chairman delivered at Richmond. We believe that the states, however, should enact legislation, clearly defining credit unions, their scope and functions and methods of operation, as well as providing suitable systems of inspection and supervision. A liberal statute is desirable, such as the recently amended credit union law of the state of New York, which permits wide variation in the types of associations and at the same time provides the means of control.

The report of the United States commission on this subject, Senate Document, No. 380, will be found both interesting and instructive. The states of Texas, New York, and Massachusetts

have adopted laws on this subject and they are set out in full in Senate Document No. 214, part 3, under the head of Agricultural Co-operation and Rural Credit in Europe. The deposits and loans of these rural credit banks should be exempt from taxation.

Your committee, therefore, fully concurs in the recommendations of the Commission that legislation for local credit unions, associations to be formed by groups of small farmers should be left to the several states.

It has been suggested that such associations are not needed in some of the states. In the south, especially, where so many small farmers and tenants are absolutely dependent upon the advance merchants and where the rates of interest charged on advances for supplies are frequently excessive and enormous, the system of credit unions are urgently needed. A large proportion of the cotton crop of the south each year is made on money advanced by merchants or bankers, and the high rates of interest which generally prevail, is a most grievous burden upon the small farmer and tenant, whose poverty compels them to submit to such interest charges as the avarice or greed of the lender may dictate. Our entire commercial banking system was organized solely in the interest of the commercial classes and is not adapted to supply the annually occurring needs of the farmers. In our judgment, the success of any system of rural banks to extend personal credit to that class of our farming population who are now in most pressing need of assistance, should be based upon the fundamental idea of co-operation. With the unlimited liabilities of its members, especially in the South, there would result a credit foundation upon which loans could be made. It may be claimed that this unlimited liability is foreign to the customs and habits of our people and would meet serious opposition. It is well, however, to remember, that especially in the South, where the cotton crop, its chief agricultural asset, is annually produced on money loaned, that the liability of the small tenant and farmer in the South is already practically unlimited.

Speaking of these associations, the Secretary of Agriculture says, "Co-operation is the essence of these enterprises. Its growth will probably be slow and it will be retarded by the fact that two races are living side by side. Public opinion will, however, be

educated. Pains should be taken to place before the people the best forms and methods of organization and the states should be induced, if possible, to consider and take up necessary legislative action prerequisite to the formation of these associations."

We think it therefore essential and recommend that the several states pass laws not only permitting but encouraging these rural credit co-operative societies. It would also be well for each state whose needs require the formation of these societies, to require its Department of Agriculture to employ experts to explain their principles and operation to the farming community and to immediately commence a campaign of education. A strong public opinion can alone be created by such methods, and before these necessary reforms can be inaugurated we must be content to await such opinion.

It is hoped and expected that the next session of congress will enact suitable legislation on the subject of land mortgage banks. The agricultural interests of the whole country and especially the South, demand immediate legislation on the subject. If proper systems of agricultural credit-land-mortgage or long term credit or personal or short term credit has been provided, the South, especially, could have escaped the financial loss caused by the European war. Without warning or preparation the producers in the cotton-growing states were confronted with a serious economic crisis. Over nine million bales of our chief agricultural product, which last year was sold abroad, was practically denied a market. It was estimated that the results of foreign war would reduce cotton consumption abroad at least one-half and hence, the South was confronted with the problem of withholding four or five billion bales of cotton from the market until normal conditions were restored or selling it at panic prices, far below the cost of production. If a system of rural credit unions had existed in the South as has prevailed in Europe for many years, this surplus cotton could easily have been financed and used as absolutely safe collateral for loans. With the material reduction of acreage which will necessarily result from the abnormal high prices of food-stuffs caused by the European war, this surplus cotton with a proper financial system could easily have been withheld from the market and gradually sold as conditions warranted and the financial loss which the South has suffered averted.

It may be expected, therefore, that the great agricultural interests of the South, producing a crop which last year, with the seed and linters, brought in cash over a billion dollars, will urgently insist upon immediate action by the Federal Congress at its next session looking toward the enactment of suitable legislation providing a system of farm mortgage land banks.

#### LIMITATIONS OF LOANS ON FARM MORTGAGES.

In the Hollis-Bulkley bill there is a provision limiting the amount of loans to four thousand dollars. Your committee cannot understand the reasons which could induce such limitations or give it their approval. Loans are to be made on fifty per cent of the value of the lands mortgaged and limitations of the amount which the owner of the land can borrow, regardless of the value of the security, is arbitrary and not justified by any considerations of public policy. Such a limitation would have a tendency to depreciate the value of land as a security for debt. The merchant, the manufacturer, the business man, can always obtain loans on stocks, bonds, or other commercial paper, for any amount his security may justify and no reason can be shown why the owner of lands should be denied any amount of loans the value of his lands would warrant. Such a provision would tend to discourage the ownership of land and unjustly discriminate against real estate as a security for debt. Your committee is, therefore, of the opinion that the proposed limitation is without any defense in the forum of logic and cannot be supported by any sound business considerations.

There has been an alarming increase of tenant farmers during the last decade, an increase, as shown by the last census, of 15.3%.

Absentee landlordism is annually becoming more and more a menace to our agricultural progress and gradually sapping the foundations of rural prosperity.

If we would check the drift of our rural population to the cities, if we would encourage the movement of "back to the farm," if we would remove the menace of absentee landlordism and encourage the purchase of farms by tenants and men of small means, if we would increase agricultural production and secure cultivation of the large area of waste lands in the country, un-



productive, we must extend to the farmer the same facilities for credit now enjoyed by our commercial classes.

If the Congress would speedily enact legislation by which lands could be made a liquid asset at a low rate of interest, and if the states would at once encourage and enact suitable legislation to promote co-operative credit unions and associations, we could justly expect a new era of agricultural development and progress. All efforts to secure direct governmental loans or subsidies in the proposed federal legislation should be discouraged. The farmers are asking no charity and those who in their mistaken zeal are urging governmental loans or subsidies are only delaying, if not jeopardizing, the passage of this important legislation.

#### EXHIBIT I.

MY DEAR SIR:

Responding to your request for my comment on the bill proposed by the United States Commission for the establishment of a land mortgage banking system, I have the honor to submit the following:

I trust that our friends in discussing this matter and in devising legislation concerning it, may be very conservative in their expressions concerning the results. Unquestionably many people in different sections of the country anticipate action and results which can not be had. Rural credit conditions differ very widely in the nation. There are fundamental conditions producing this variation which legislation cannot alter. They grow out of unequal economic development, out of differences in climate and soil conditions, in stability of agricultural industry, in methods of farming, in distance from markets and from centers of larger wealth, and in the nature of financial agencies through which capital is provided.

Those who expect legislation to bring about low rates of interest in certain sections on farm loans or a low uniform rate of interest must, of necessity, be disappointed, as well as those who imagine that the Federal Government will in some way provide funds for them at a lower rate of interest than market conditions justify, or at a lower rate of interest than other citizens with the same security can obtain them.

Either a land mortgage banking system for long time loans or a rural credit association formed for the purpose of securing a credit foundation for short time loans by small farmers can most easily be created and most safely be operated in the very sections which need them less. In the less well developed states of the Union the necessary restrictions in a prudent rural credit system will result in relatively few loans and in a relatively high rate of interest on these, and this will unquestionably tend to produce dissatisfaction and discontent. For these reasons it would be wise, if it were feasible, to call upon the states to assume responsibility for this legislation, whether it be for a land mortgage banking arrangement for long

time loans or for a credit association for short time loans. But a great deal has been said about Federal legislation on this subject, and the public has been brought to believe that it is feasible and desirable, and there are certain indirect results which might be secured from such legislation. These two considerations were in the minds of the members of the Commission and led them to suggest Federal legislation for long time loans and state legislation concerning rural credit associations for short time loans. Considerable indirect effects might result from Federal pressure, such as better systems of registration of land titles, conveyancing, taxation of mortgages, foreclosures and the like, and their simplification. Furthermore, it is possible that greater efficiency and conservatism in management might be secured and more satisfactory inspection might be guaranteed.

This bill proposed by the Commission deals solely with the land mortgage bank idea for long time loans. The salient features of the bill are:

- a. The creation within the Treasury Department of a Bureau of Farm Land Banks. (Sec. 2.)
- b. The Federal incorporation of farm land banks under conditions to be specified by the Secretary of the Treasury. (Secs. 10 and 13.)
- c. These farm land banks may be either co-operative or not. (Sec. 14.)
- d. They may be (Sec. 16, pp. 27 and 28):
  1. Receive deposits and pay interest upon them.
  2. Make mortgage loans on farm lands within the state where they are located.
  3. Loans to run for not more than 35 years. If they run for more than five years, to be paid off in fixed annual or semi-annual installments, but may be paid off more rapidly after five years, at option of borrower.
  4. Issue bonds against farm mortgages held.
  5. Rate of interest on farm loans not to exceed rate on bonds by more than 1% per annum, which 1% is to pay all charges of administration. (Sec. 16, pp. 28-29, and Sec. 45.) There is an apparent discrepancy on pp. 28 and 29.
  6. Only 50% of the capital of the bank may be invested in mortgages, or in its own bonds, the rest may be invested in government or state bonds, or such securities as Commissioner of Land Banks may designate.
  7. Bonds not to exceed fifteen times capital and surplus.
  8. Mortgages and bonds to be exempt from taxation. (Sec. 18.)
- e. Federal fiduciary agent to be appointed by Commissioner for each bank. (Sec. 19.)
  1. To certify to every bond issued by bank.
  2. To have joint control and possession with bank, of mortgages, notes, etc.
  3. To have supervisory control of entries in mortgage ledger.
  4. To be paid for his service by bank.

- f. Shareholder liable for the amount of stock in addition to amount invested. (Sec. 31.)
- g. At the discretion of Secretary of Treasury, bonds are to be available for (Sec. 34)
  - 1. Security for deposit of postal savings funds, for loans from national banks to farm land banks or to individuals for not exceeding five years.
  - 2. Investment of funds of savings departments of national banks and banks in District of Columbia, and of trust funds administered by U. S. Courts.
- h. Expense of examination to be paid by banks. (Sec. 35.)
  - 1. Destructible property on which mortgages are held to be insured. (Sec. 42.)

The bill in the main is well conceived and well drawn. There is a very successful company operating at Joliet, Illinois, selling debentures blanketed on farm mortgages limited to the State of Illinois, applying the method of amortization, which could reorganize under this law practically without change in its organization or methods.

It will be observed that the farm land banks contemplated by this bill would be merely credit institutions. They would in all probability lend only on what are known as "gilt edge" mortgages, which is proper from the point of view of the lender. They would very properly lend to anybody who produced the requisite securities or mortgages on land. It would be possible for a farmer to borrow from the bank at a low rate of interest, which low rate will be due to the inspection and supervision of the Federal Government, together with other privileges, and then lend it out again at a higher rate of interest to people not so favorably situated. It is needless to say that this would not be a desirable thing and would justify the trouble. It would make it possible for larger owners to take advantage of the terms to borrow money, to buy more land, to rent to tenants, and thus promote the growth of tenancy in the nation.

I am not prepared to suggest the terms of the legislation, but two things should be insured by proper supervision:

First, that loans should be made only to bona fide farmers.

Second, that the enterprises for which they borrow the money should be productive in character, or a provision covering both points to this effect; that the money should be used only for productive purposes on the farm covered by the mortgage.

The former needs no comment; the latter would imply inspection of the request for a loan with a view to ascertaining its purposes. It is necessary to look at something more than the character of the security; the purpose for which the money is to be used is the vital thing. If it is to be used by the farmer himself to finish the payment for his farm or to provide permanent productive improvements, then it would be economically and socially justified.

There is, therefore, something more than mere financial operation to be considered. Such examination of the purposes of the loan would not only prevent speculation but would tend to prevent the ill advised or foolish use of capital. I admit that this is a difficult thing to secure, but it is essential in all successful undertakings of this kind and without a safeguard in this direction the trouble required for the legislation and the inauguration of machinery would not be worth while.

I think that this bill amended to incorporate the two suggestions indicated in the foregoing would operate safely in the settled portions of the country, and through the indirect quite as much as through the direct effects, enable the farmers to secure more capital at somewhat better rates of interest.

In the newer states of the Rocky Mountain region where conditions are still speculative, and in the states of the South which have a diverse population and a large shifting tenant class, special difficulties will be encountered and smaller results for the time being may follow. Unless the people of these states frankly recognize the economic differences, allowing time for development, and do not expect large results in the immediate future there will be disappointment. I believe that banks operating under the bill with the suggested amendments would furnish some relief in the near future and would lead to an orderly adjustment and larger things in the distant future.

It seems reasonably clear that loans extended for clearly productive purposes would be safe, and that either the mortgages on the farms, or the debentures blanketed on such mortgages, would be a good investment. The safeguards suggested would eliminate loans for speculative purposes, a larger market would be found for the securities, more capital would doubtless be attracted into those communities, and better rates of interest might be secured.

As I have intimated, the Commission has recommended that legislation for local credit associations, to be formed by groups of small farmers, be left to the states. This seems to me to be a wise suggestion. Such associations are not needed in many of the states. They are most needed in the Southern States, where there are a great many poor farmers owning or renting small farms. It is highly desirable that they be released from their dependence on merchants. The formation among them of credit associations with unlimited liability of members might result in a credit foundation on which loans could be made. The unlimited liability feature would not be so distasteful here, perhaps, as elsewhere, since their liability is already unlimited. Co-operation is the essence of these enterprises. Its growth will probably be slow and it will be retarded by the fact that two races are living in the South side by side. Public opinion would have to be educated. Pains should be taken to place before the people the best forms and methods of organization, and the states should be induced if possible to consider and take up necessary legislative action prerequisite to the formation of these associations.

There are two minor changes in the bill which should be made. In the first place there is a discrepancy between provision 1, section 16, near the top of page 28, and limitation C near the bottom of page 29. These mean different things as to the amounts to be paid by the borrower. They should be reconciled. In the second place, section 33, page 34, probably should be amended by including after the word "institution," line 2, section 33, the following clause:

"Including building and loan associations or savings and loan associations lending exclusively on farm mortgages."

It seems to me that it would be expedient to mention these by name.

I would in conclusion point out that the currency bill goes a considerable distance in the direction of more intimately reaching the farming population.

Very respectfully,

*Secretary.*

FORMER GOVERNOR FORT—This is a report of a committee which the chair understands was appointed at the meeting at Richmond after the discussion of rural credits to which I just referred. This is not a paper. I suppose it is a report properly before the meeting. Whether you would want to adopt it, or simply receive it and have it printed, it is for you to say. Any motion?

GOVERNOR BALDWIN—I would move, Mr. Chairman, that the report be accepted and placed on file.

FORMER GOVERNOR FORT—And, I suppose, printed in our reports.

GOVERNOR BALDWIN—Yes.

GOVERNOR SPRY—Second the motion.

FORMER GOVERNOR FORT—Possibly some discussion may be desired. I would be very glad to hear anybody on this general subject while this motion is pending. Any remarks from any of the governors on this?

GOVERNOR AMMONS (of Colorado)—Mr. Chairman, I believe there are some governors here representing states where some attempt has been made in this direction. All of us, I believe, are interested, and if there are any who have had any experience I, for one, would like to hear what it is. Our people are asking for something along this line all the time, and we have nothing to propose as yet.

FORMER GOVERNOR FORT—Can anyone help the governor of Colorado?

GOVERNOR O'NEAL—I think systems of credit unions have been established in New York, Massachusetts, some in Ohio and in North Carolina. Those are the only places I recall. There is nobody representing those states here to-day. Wisconsin has a system; one of the best. I expect Governor McGovern could give us some light on this subject.

GOVERNOR MCGOVERN (of Wisconsin)—Mr. Chairman, during the session of 1913 our legislature passed bills providing for the organization of rural credit associations on both the personal credit basis, or the basis of short time loan and upon the basis of land mortgage security or the long time loan. These bills were modeled in a general way upon plans referred to by Governor O'Neal. That is, the short time loan enactment was modeled after the Raiffeisen plan of Germany, and the land mortgage loan under the Landschaft plan of Germany. The central principle in each case, I mean, was the same. There were many modifications.

Now, those laws have been in existence since their enactment in 1913; that is a little more than a year. There have been a number of applications for the organization of land mortgage associations, and two have actually been established, one at Marinette in the northeastern part of the state, and one at Eau Claire in the north central portion of the state. Other plans are in preparation, and to all appearance this scheme will be worked out with entire success. Additional credit on the basis of rural credit systems will be extended to the farmers, particularly in the northern part of the state, and there seems to be no special difficulty in disposing of the securities. I was informed just a moment ago that a banker in Milwaukee said the only trouble was that he could not get enough of them.

GOVERNOR O'NEAL—Of the land mortgages?

GOVERNOR MCGOVERN—The land mortgage bonds.

GOVERNOR O'NEAL—What is the rate of interest they usually bring?

GOVERNOR MCGOVERN—I think 6%.

FORMER GOVERNOR FORT—Free from taxation?

GOVERNOR MCGOVERN—I think not.

SECRETARY M. C. RILEY—Subject to the income tax.

GOVERNOR MCGOVERN—Subject to the income tax, but not subject to a property tax.

Now, the fact in Wisconsin is that in the southern part of the state and throughout the central portion of the state farmers, instead of being borrowers, are lenders. The banks are bulging here with the surplus cash of the farmers, and so this plan does not appeal to them particularly. It does appeal to the people in the northern part of the state, and thus far we have made such progress as I have indicated. The fact nothing has been done about putting the personal credit system into operation is due, I think, to the fact that the public generally does not know of the existence of the law. There has been no systematic effort to bring information to those who would be benefited by such a system when it is established, and, as far as I can see, it will require some act on the part of the government, some leadership through governmental agency, I believe, to bring about the establishment of the first society. I should imagine that as soon as they were established the others would follow suit. At any rate, I attach no especial significance to the fact that the year has gone by and no one has yet acted under the plan for extending credits and loans on the personal credit plan for short terms.

GOVERNOR SPRY—Mr. Chairman, I want to say that in my state, Utah, we have followed the practice for a very great many years of loaning the income to the state that has been derived from the sale of our land grants. For some years we attempted to loan upon the basis of 50% of the assessed valuation, but, as a matter of fact, our assessed valuation was placed at so low a figure that but very little could be done along that line. Some four years ago we changed the law so as to enable the officer who controls those matters to do a far greater volume of business with the farmers of the state, and provided that loans could be made on a basis of 50% of the sale valuation of the land, and we have been doing really a land office business ever since that time. To-day if we had an additional \$600,000 we could loan it within twenty-four hours, the applications are coming in so rapidly, and, as a matter of fact, the state has been able to do a vast amount of good in the mountain communities of the state in loaning this money at the rate of 6%. There has never been any necessity for foreclosure, and, as I say, the money is in constant demand.

We really cannot keep ahead of the game. So that, so far as Utah is concerned, we find that system, as it may relate to the suggestions of Governor O'Neal, working most satisfactorily. Governor Carey wants me to state the rate of interest. It is 6%. We make our loans running anywhere from two to ten years.

GOVERNOR O'NEAL—Have you a system of amortization of the principal?

GOVERNOR SPRY—No, we do not follow it as closely as your report suggests. However, I am very strongly in favor of your suggestion, and I am satisfied it would meet with general favor throughout the entire west, where there is so much money realized from the sale of public domain.

GOVERNOR O'NEAL—Has your state made the mortgage liable to taxation?

GOVERNOR SPRY—No. We tried that once in our state but we repealed the law, because so many people sent the money into my neighboring state, Wyoming, to have it loaned by parties over there, and those mortgages became so intangible it was impossible for us to reach them. We thought it was working more or less a hardship on our own people, who were using their own money, so we repealed the mortgage tax. We repealed our mortgage tax some six or seven or eight years ago. It did not work satisfactorily.

FORMER GOVERNOR FORT—May the borrower pay in installments?

GOVERNOR SPRY—They pay annually.

FORMER GOVERNOR FORT—On the principal?

GOVERNOR SPRY—The principal and interest.

FORMER GOVERNOR FORT—That is practically amortization then?

GOVERNOR SPRY—Yes, practically. They pay at the end of the year, as a rule. We are loaning sometimes from one thousand up to twenty thousand dollars. We are also using money from these same funds to take up the bonds of our irrigation districts. We have loaned large sums of money for the purpose of pushing that work along.

GOVERNOR O'NEAL—Will you tell us something about your system of land title? Have you the Torrens system, or is it the old system?



GOVERNOR SPRY—It is the old system. We have not taken up the Torrens system.

GOVERNOR MCGOVERN—I would like to ask Governor O'Neal why he thinks the abandonment of the old system and the adoption of the Torrens necessary to the introduction of his plan?

GOVERNOR O'NEAL—I do not mean it is necessary to the introduction, but it would facilitate the introduction of the plan, and make the rate of interest lower. The government does not require in the bill that the Torrens system should be adopted, but it does require there shall be some simple method of registration of land titles in the foreclosure of mortgages. The trouble is in a great many states the titles are imperfect and there is a certain risk. You cannot trace a title back unless a statute of limitations makes it good. But in Germany, and those countries where the very lowest rates of interest have been obtained, the title is guaranteed by the government. The man who invests in a bond based upon a farm mortgage, if he thinks there is any doubt about the security—that there may be litigation about the title—why, he is not going to accept it at a low rate of interest. And it is to the interest of the farmer that the title should be so secured that the investing public would buy the bonds without question.

Now, of course, it will take time to accomplish any reformation in that direction, and there are many ways by which each state could, without any very large expense, simplify land titles. For instance, we could provide some simple form of mortgage, and some simple method of foreclosure, and we could, by some system of quieting title, provide like is done in the Torrens system, that after two years all litigation should terminate about that title. The bill, as enacted by Congress, does make that a pre-requisite to the introduction of the land acts in a state, but it only recommends uniformity, because it is to the interests of the farmer, and it results in securing a much lower rate of interest.

GOVERNOR STEWART (of Montana)—To what extent does the Torrens system abolish the idea of adverse possession and statute of limitations?

GOVERNOR O'NEAL—It does not necessarily interfere at all. The two systems can go on just the same. In some of the states

where the Torrens system has been introduced the old system continues. You can continue to take your deed to the recorder and have it recorded under the old system, but if you adopt the provisions of the Torrens system all subsequent records of the title of that particular piece of land must be under the Torrens system, I expect.

GOVERNOR STEWART—Your title is quieted upon registration.

GOVERNOR O'NEAL—After two years, I believe.

GOVERNOR STEWART—What states have the Torrens system?

GOVERNOR O'NEAL—I think Massachusetts has it and some other eastern states.

GOVERNOR BALDWIN—There has been a book published on the subject. A book that was published perhaps five or six years ago by a French scientist and jurist named Dumas, which describes the American system as well as the Torrens system.

GOVERNOR O'NEAL—One of the books on the subject is "Niblach on the Torrens System."

GOVERNOR HAINES (of Maine)—Just what is your suggestion? Would you limit the term of foreclosure or redemption?

GOVERNOR O'NEAL—I would prevent any redemption after foreclosure. For instance, in Alabama we have a statute which provides that the assignee and his heirs at law have two years after the sale by foreclosure in which to redeem. He has to pay 10% interest, and certain charges and all improvements, but that absolutely prevents the investment in farm land bonds because there is danger of redemption, and the security is uncertain. My idea was that we should provide in each state some simple form of foreclosure. The mortgage should provide that after thirty days notice the land should be advertised and sold, and no statutory redemption should be allowed. Of course, if he has some equity we could not probably prevent that, if he had some equitable right to redeem, could show fraud, or anything of that kind.

FORMER GOVERNOR FORT—You mean the mortgagee himself might go ahead and foreclose, can even sell without court decree?

GOVERNOR O'NEAL—Yes. In Alabama we have had that system in operation for years. The only trouble is we provide for redemption within two years. You execute a mortgage to me on your tract of land, and if you fail to pay the principal or interest, the insurance, or fail to comply with any of the terms

of the mortgage, I can proceed to sell after thirty days notice, and all the title vested in you is vested in me as the result of that sale. Now if we would abolish the statute which permits redemption in two years it would be a very simple method.

GOVERNOR HAINES (of Maine)—Would you provide that by the contract?

GOVERNOR O'NEAL—Yes, provide it by the contract.

GOVERNOR MCGOVERN—How does redemption impair the security?

GOVERNOR O'NEAL—Well, a man might say: "Well, I would like to buy that piece of land; I would like to build a home on it; I would like to buy it for a home or farm, but," he says, "if I buy it, it will be two years before I know whether I will acquire title." The mortgagor might redeem it. He may file a bill in court and tie it up for several years.

GOVERNOR BYRNE (of South Dakota)—But from the standpoint of the lender his money is always secure.

GOVERNOR O'NEAL—Yes, it is always secure. In Germany, and I think that probably ought to be incorporated in these places, they have a simple proceeding by which they can sell any time default is made in the payment of the debt. They must bid in the land for the debt. If it brings more than the debt the surplus is returned to the mortgagor.

GOVERNOR HAINES (of Maine)—The mortgagor?

GOVERNOR EMMET O'NEAL (of Alabama)—Yes. They do not acquire title to anything above the debt. They get back their money and that is all.

GOVERNOR HAINES—Your idea is, then Governor, that by having that power of contract to limit the right of redemption, it would make these bonds more saleable?

GOVERNOR O'NEAL—Far more saleable and negotiable.

GOVERNOR MCGOVERN—Isn't there a great deal to be said on the other side of that? The purpose of this whole scheme is to afford credit to farmers who need it, to enable them to make loans to upbuild agriculture. Now, if at the same time you facilitate the matter of foreclosure, and take the farms away from some of these men who might retain them if they had an opportunity of redemption, are you not likely to do as much mischief in one direction as you accomplish good in the other? So long as the

security of the loan is not impaired by redemption, why should there be any change in our law in that respect? Why should we not devote our attention to increasing the possibility of extending money on credit to farmers for the improvement of agriculture without impairing the security of their title, or subjecting any of them to the hazard of losing their land in ways they cannot lose the land now?

GOVERNOR O'NEAL—The result of the experiment on this subject in Europe, where the very lowest rate of interest has been secured, seems to show that there should be no redemption allowed after foreclosure. This condition exists there: If the farmer goes to the mortgage association and gives good reasons for an inability to meet his payment, if the officers of the association know he is honest, they will advance him the money. In other words, they never seek to foreclose unless there is strong proof that the farmer does not intend to pay, that he is either worthless or so indifferent as to be without any intention of complying with his contract. If you want to make the bonds easily negotiable and secure the lowest rate of interest you cannot allow redemption. These bills could make some provision where a farmer has failed to pay the interest, give him a certain time before you can foreclose, and require him to file an explanation, and authorize the bank, if the explanation is satisfactory, to advance him money to pay the amortization and interest payments; something similar to the Landschaft provision.

GOVERNOR EBERHART (of Minnesota)—Mr. Chairman: I have listened to this discussion with a good deal of interest, and the more I listen to it and hear both sides of this rural credit question discussed, the more I come to the conclusion that it is quite impracticable to establish a uniform system throughout the many states of the Union. In my state we have the Torrens system of land titles. It is optional, however, and is not used to any great extent. The titles are perfected in the ordinary course, by proceedings in court, and then after that the titles are certified by the land registrar as the title is certified now by the ordinary abstract companies.

But the difficulty we find in our state is that the central or northern part does not require the same system. It is a good deal like it is in Wisconsin. In the older settled portions of the

state, where the land values are established, and where the farms are improved, they do not want the loan, because there, as here, the farmers own the banks—two-thirds of all the deposits in the rural banks belong to the farmers. They get 4% on the deposits, and they get from ten per cent upwards in dividends on the stock in their banks, and they do not want any loans for less than 5% and 6%. Now, of course, they cannot have five, but they can have 6% and 7%.

It is not a question of securing credit for the land itself. But where we find the difficulty is to secure personal credit for the land improvements, and we have established a sort of voluntary system among the bankers themselves which has operated very successfully. I called a convention of a large number of prominent bankers throughout the state shortly after the inauguration of the county agricultural agent system, and the county bankers agreed whenever the county agricultural agent would certify to the credit of any farmer, as to his ability to care for a certain amount of stock, the banks would advance the money to the farmers and take their notes at a low rate of interest for the entire amount. That plan has worked successfully throughout the entire state, at least the older portion, and a very large number of carloads of graded and thoroughbred stock have been shipped in all over the state under that policy. But in the northern part of the state, where we have all cut-over lands, there is where no system of rural credit I have been able to discover can work. In the first place the basis for credit is not there. The lands are cheap, can be bought for \$5 an acre up. It is good land, but not available for agriculture until the stumpage is clear. There is where the difficulty comes in with the poor man, who buys that land. He must have some system to establish credit so he can clear his land and get it into practical operation. We have attempted to place the state behind a system of credits, and at this election we voted on a constitutional amendment establishing what is known as a revolving fund, from which the farmers could borrow at 4%, and in accordance with which the state itself would undertake the policy of clearing a certain amount of land and turning it over to the farmers. Now, owing to the little interest taken in that amendment to the constitution, I am afraid it did not carry, but there

was no organized opposition to it. I am heartily in favor myself of such an amendment. I think it is perfectly justifiable for the state to place itself behind the farmer under such conditions, and establish a credit for him.

We loan our state funds, which are very large, to municipalities and to school districts, and for drainage purposes. Our investment commission loans out every year from four to five million dollars and we have placed in loans of that kind about twelve to thirteen million dollars, but we do not loan on real estate. We do loan to municipalities and school districts, and for drainage purposes. Now, I do not see any reason why the state could not loan to the farmers for the purpose of clearing the land. If that could be done, then the bankers can come in and loan to the farmers for operating purposes, just as in the southern and central parts of the state.

The difficulty we find is this: the farmers themselves, where established, do not want any system of rural credit that will interfere with the business establishments they themselves have, and they practically own and operate the banks. They do not always operate them, but they own two-thirds of the deposits. The system we have tried has been very successful. If we could secure the adoption of the constitutional amendment, we could loan to bona fide settlers in our northern counties. If we could get the state's credit behind the improvement of the northern section so that we could get those valuable lands cleared, and enable the poor farmer to buy that land and put stock on it, we would have the problem solved. I do not see anything very difficult about the entire matter. The bankers I find, as a general rule, are willing to get behind it, and the most valuable assistance we have had is the county agricultural agent. He investigates every farm and knows what kind of stock is required, and makes the recommendation, and whenever he has enough recommendations to make up a carload shipment, he goes to the bankers and business men, and they advance the money and the farmers get the stock. One county has shipped in about twelve carloads of thoroughbred and graded stock within the last year and a half since this plan was adopted.

I am heartily in favor of a system where the state funds can be loaned for agricultural development. I see no danger of loss.

If the state undertook to clear that land the title could ultimately revert to the state and there would be ultimately no loss to the state. In Minnesota we cannot use our school funds for that purpose because of constitutional prohibition. I believe if we had provision for a large revolving fund of a million or half a million dollars, and loaned that money out directly for the purpose of development in the northern part of the state, clearing the land and enabling the settlers to buy that land and go into farming on a larger scale, every interest in the state would be benefited by it. In fact, we found no opposition to the proposed amendment, because the development of that northern section of the state and the improvement of those cut-over lands would result in direct benefit to every section of the state.

GOVERNOR AMMONS—To whom do those lands now belong? They are not public lands?

GOVERNOR EBERHART—About a million and a half acres are still state lands, but they are sold by speculators often at from \$5 up.

GOVERNOR O'NEAL—Does the state sell the timber?

GOVERNOR EBERHART—The state sells the timber separately. But most of this is cut-over land.

GOVERNOR AMMONS—Is there any land in your state which belongs to the Federal Government?

GOVERNOR EBERHART—We have some, yes.

GOVERNOR AMMONS—Not this cut-over land?

GOVERNOR EBERHART—Yes. Not very much.

GOVERNOR AMMONS—How would you handle those?

GOVERNOR EBERHART—Most of this is swamp land and will ultimately be turned over to the state under the swamp land act.

GOVERNOR AMMONS—You can handle it if it is turned over to the state?

GOVERNOR CAREY—Who appoints this county agent?

GOVERNOR EBERHART—The state pays half and the county pays half, and the state requires an additional \$500 for running expenses.

GOVERNOR CAREY—Who pays the county agent?

GOVERNOR EBERHART—The county commissioners appropriate one-half. They raise it in numerous ways, but it must be guaranteed by the county commissioners, and the state pays the other half. And the running expenses are paid by the county.

GOVERNOR CAREY—Is he selected by the governor?

GOVERNOR EBERHART—By the Agricultural College authorities

GOVERNOR O'NEAL—How much is he paid a month?

GOVERNOR EBERHART—He is paid by the year. I should say about \$2,000.

GOVERNOR O'NEAL—How much school money have you available to loan in your state?

GOVERNOR EBERHART—About \$18,000,000.

GOVERNOR O'NEAL—You loan how much of it?

GOVERNOR EBERHART—We loan all of it.

GOVERNOR O'NEAL—On land as security?

GOVERNOR EBERHART—Our latest outlays were for bonds. We own quite an amount of state bonds. However, we are not buying any more bonds, but are loaning the money directly at the rate of 4% to municipalities and school districts, and for drainage improvements.

GOVERNOR AMMONS—That is district improvement bonds?

GOVERNOR EBERHART—Well, school district bonds.

GOVERNOR O'NEAL—Suppose several banks, as contemplated in the bills I discussed, are put in operation, and these farm mortgages are issued in the shape of debentures for a long period of years. Could your school money be used to purchase those bonds?

GOVERNOR EBERHART—I believe it could.

GOVERNOR CAREY—Do you believe in loaning the school funds at a low rate of interest to farmers rather than getting all the money is worth in benefit to the schools?

GOVERNOR EBERHART—I don't believe in loaning it lower than 4%. If you loan the farmers on real estate you get the poorer class of loans. I would rather loan it to the schools and municipalities and for internal improvements such as drainage. We have drained in my state about two and a half million acres at an average cost of \$2 per acre.

GOVERNOR CAREY—You loan it to the state?

GOVERNOR EBERHART—No. The drainage district issues bonds and we take the bonds, buy the drainage bonds.

GOVERNOR AMMONS—Have you had any losses?

GOVERNOR EBERHART—Never had any losses.

GOVERNOR AMMONS—Do you buy all the bonds or only a portion?



GOVERNOR EBERHART—We buy all the bonds. They raise some money locally, but we buy the bonds they issue on the drainage project, usually.

GOVERNOR AMMONS—Never had any loss?

GOVERNOR EBERHART—No.

GOVERNOR AMMONS—How long have you been doing that?

GOVERNOR EBERHART—About fifteen—sixteen years.

GOVERNOR AMMONS—The reason I am asking is that we now have over fifteen millions of acres non-productive because not drained.

GOVERNOR EBERHART—Most of the drainage is done by counties and judicial districts in Minnesota. Where ditches run through more than one county it is a judicial ditch. The state furnishes most of the money.

GOVERNOR BYRNE—You speak of getting the poorest class of farm loans. Has it been the experience of the state that there has been a loss from loaning money? Any state, so far as you know?

GOVERNOR EBERHART—Not as far as I know.

GOVERNOR HAINES (of Maine)—You do not lend any to farmers, do you?

GOVERNOR EBERHART—No.

GOVERNOR BYRNE—You spoke of getting a poor class of loans. I wondered what authority you had.

GOVERNOR EBERHART—The best securities have no difficulty in security money in the open market, and where it does not cost any more they would rather go to the open market to sell their bonds and get the loan than to come to the state.

GOVERNOR BYRNE—We have been loaning school money for over twenty-five years, and I never knew of a loss.

GOVERNOR O'NEAL—You loan on real estate security?

GOVERNOR BYRNE—Yes.

GOVERNOR HAINES (of Maine) (to Governor Eberhart)—Your idea is your state does not need the rural credit system?

GOVERNOR EBERHART—I have not been able to find a system that would work out. We would need it if it were workable. But such a thing as two or three per cent money is impossible with us. When it comes to six or seven per cent the farmer can get it. In the northern part the difficulty is that the basis for

credit is not there, and the state will have to get behind that land until it is improved, so as to be a basis for credit.

GOVERNOR O'NEAL—It seems to me you already have a system of rural credit.

GOVERNOR EBERHART—We did have.

GOVERNOR O'NEAL—If the agricultural agent recommends to a banker that a certain farmer is thrifty and honest, and needs so much stock, the bank will buy the stock, or advance the money to buy the stock and take his note on long time. That is simply what we want to accomplish under this system.

GOVERNOR STEWART—This same thing has been done with us.

GOVERNOR O'NEAL—That is what we want in the South. (to Governor Eberhart): What is your statute of limitations as to real estate?

GOVERNOR EBERHART—Fifteen years.

GOVERNOR MCGOVERN—Isn't this true, Governor Eberhart: It is difficult to say whether a system of land mortgage loans would be practicable in your state until you have tried it? The northern part of Minnesota is very much like the northern part of Wisconsin. Now, we have had a law on our statute books about a year, and two institutions are in actual operation and there are a considerable number—I won't undertake to say the number—of applications for other land mortgage associations. Isn't it fair to infer that if like provisions existed in Minnesota there would be the same demand for the establishment of those institutions there?

GOVERNOR EBERHART—You are duplicating and multiplying your institutions, with different kinds of banks. I would rather have it simpler if possible.

GOVERNOR MCGOVERN—As Governor O'Neal said, our present banking system is adapted to the requirements of commercial life. It never was formed with reference to the needs of the farmer. We are trying to supplement that, not to displace it, by the establishment of these land mortgage banks, and the thought is by doing this we will not only help the farmer by giving him money and credit he could not otherwise have, but we will help stimulate the banking business because it is through the banks the bonds will be negotiated and floated, and instead of duplicating or injuring in any way, or displacing any lawful

occupation, we will help all parties and extend the system of money loaning and of credit.

GOVERNOR STEWART—In our state we have now several institutions that have been used for loaning money to farmers. They make a loan and take the land over in their own name. For instance, the banking corporation of Helena is a farm mortgage company. They make their loan and take over the land. And then they issue bonds against it, and sell the bonds in the East, and they keep margin enough to pay them for handling the business. But they loan the money to the farmers at 7% or 6%, as the case may be, and then they will sell the bonds back East at four or five.

GOVERNOR HAINES (of Maine)—That is a debenture?

GOVERNOR STEWART—Yes. And in that way they have carried a lot of real estate mortgages that otherwise could not have gotten the money. It is the same plan, without state or governmental support, it is a strictly private proposition.

GOVERNOR MCGOVERN—I want to state further we have in Wisconsin substantially what Governor Eberhart said about the bankers assisting the farmers in buying blooded stock, and it is a system of rural credit on the personal security basis. The only difference between that informal and impromptu plan, if I may say that, and what he advocates, the rural credit proposition, is that it is not systematized, it is not localized. It is not so organized as to make its benefits extensive.

GOVERNOR O'NEAL—As you know, gentlemen, this system of rural credit in Europe was first undertaken by the very plan you (Governor Eberhart) suggest. The farm expert investigated the condition of the farm, ascertained that the farm could properly raise beef, and needed a certain kind of cattle to prove profitable. He went to the bank and told them it would be absolutely safe to loan this man so much money with which to purchase cattle, and the bank loaned him the money.

GOVERNOR EBERHART—In regard to the question of Governor Byrne, I do not want to be misunderstood as stating that the loaning of state funds for farm purposes is not safe. I think the system of South and North Dakota is perfectly safe, and does a lot of good, but what I wanted to say was the loaning of state

funds for school and municipal purposes, and for internal improvements or drainage, reaches a far greater field of usefulness.

GOVERNOR AMMONS—In loaning money to buy livestock, for what length of time do those loans run? What is the rate of interests? Are payments made in installments? What arrangements are there for renewals?

GOVERNOR EBERHART—Well, it depends on local conditions. It is usually 6 and 7%. Once in awhile in the northern part 8%, but largely 6 and 7%, and the custom and practice has grown up among the bankers to take a loan for six months with the understanding borrowers take care of the stock, and if the agricultural agent reports favorably there will be no difficulty about renewals. They usually make the loan for six months, because they think when they have short time loans with the idea of renewal, if the agricultural agent does not report favorably, that the farmer will take better care of the stock and handle it better, because he must establish and keep his credit with the bank.

GOVERNOR O'NEAL—Do they have personal security besides the endorsement of the note?

GOVERNOR EBERHART—Once in awhile they do. That depends upon the farmer.

GOVERNOR MCGOVERN—I should like to raise again the question of the wisdom of doing away with the right of redemption after foreclosure in enterprises of this kind. It seems to me there is danger in establishing land mortgage associations, land mortgage banks, of allowing the views of the banks, of the money lenders, to prevail over the necessities of the borrower. And this ought not to be done. As Governor O'Neal has well said, the fundamental consideration in all rural credit schemes is the convenience and prosperity and upbuilding of the borrowing farmer. Now, the farmer may need the help that these systems afford, but ordinarily he does not give very much consideration to the formulation of plans. Bankers, on the other hand, give a great deal of thought to every suggestion of this sort, and there is danger, as it seems to me, that when we come to draw our plans in definite form, or to make recommendations even, that the pressure of the money lender will be very much greater than that of the money borrower. And it is a convenience, undoubtedly, to

the money lender, I take it, to facilitate the transfer of the title from the mortgagor to the mortgagee in every case of default in payment, but the purpose of rural credit is not to facilitate the transfer of title or to take the property away from the borrower, but rather to enable him to retain it and improve it and increase his holdings. This is the very purpose of these rural credit schemes. And I have a fear that that fundamental purpose will be defeated at times to a certain extent, if that recommendation should carry. Take, for instance, the condition in the south now because of the decline in the value of cotton. Suppose this system were in existence in the South and the demand for the great bulk of the cotton crop is withdrawn and the product is a drug on the market. Payments under the mortgage contracts fall due. The mortgagor cannot meet them. Foreclosure proceedings are begun. It will be a year before there is to be another cotton crop. Many borrowers could not secure the money, and the practical outcome of this plan will be, not to increase prosperity in agriculture in the South, but to transfer the title to these lands from the planter or the farmer to the bank, or whoever might hold the bonds.

GOVERNOR O'NEAL—Well, Governor, are there many of the states that authorize redemption after sale under foreclosure?

GOVERNOR MCGOVERN—I do not know how many there are. In our state we have such a law, and there is no trouble whatever in disposing of these bonds.

GOVERNOR O'NEAL—You mean you have a law by which the mortgagor can redeem?

GOVERNOR MCGOVERN—Within a year.

GOVERNOR BALDWIN—Within a year after the decree of foreclosure by the court has expired?

GOVERNOR MCGOVERN—Yes.

FORMER GOVERNOR FORT—After sale?

GOVERNOR MCGOVERN—After the foreclosure; not after sale.

GOVERNOR SPRY—In Wyoming and Utah it is six months.

GOVERNOR MCGOVERN—Don't you think in the case of the ordinary farmer, whose necessities would lead him to take advantage of this system, that there is need of a one year period? The period between the sale of one crop to the next? Suppose one crop failed and he cannot meet his contract requirements? Then

he would have another year before the land could be taken from him.

GOVERNOR SPRY—I think so.

GOVERNOR AMMONS—(to Gov. O'Neal): Governor, do you believe it is practical in this country to get farmers to go into a scheme where a whole community will back up the loan of an individual?

GOVERNOR O'NEAL—No, I do not think that is feasible except in certain rural communities.

GOVERNOR AMMONS—Well, even there?

GOVERNOR SPRY—Gov. Ammons, in our irrigation districts they are doing that. The land of the entire district is held as security for the loan to the irrigation district.

GOVERNOR AMMONS—But all of them benefit by it. However, here one man in the community borrows money, but every other man in the community becomes responsible for the loan.

GOVERNOR SPRY—I doubt whether you could work that in this country.

GOVERNOR O'NEAL—I think that would only be possible in certain small rural communities where each member of a bank knows everybody else. In the case of a bank, in certain rural communities it is in the nature of a club. No man will be allowed to take stock in that bank unless he is endorsed by the other members. The result is whenever a man wants to join that bank his character and antecedents are very closely scrutinized, for each man is liable for his debt, and the result has been under these credit unions that there never has been a dollar's loss sustained. It is due to the scrutiny of each man's character, and if a man makes a loan and afterwards becomes dissipated or improvident or worthless, he is dismissed. Then, too, they scrutinize the purpose for which the loan is made. It must be made purely for productive purposes. If a man wants to borrow \$100 to pay a debt he owes they won't let him have it. If he wants to buy a horse or mule or some stock they make the loan.

I do not say all these banks could be entirely co-operative. I advocate, and our report advocates, that we have a very liberal statute authorizing co-operative societies, or joint stock companies with very limited liability. In Italy, where the system has been successful, members are liable for only a certain pro-

portion of the stock they own. Their liability is limited by the amount of stock. And in some communities the plan we have in national banks might be applicable, to make a man liable for twice the amount of his stock.

But we have got to find out purely by experiment, and hence I advocate the creation by the state of laws on very liberal lines permitting the incorporation of these credit unions in many different ways, and then by actual experience we can ascertain which has been operated most successfully. I know in certain communities it would be absolutely impossible to get the farmers to go into a co-operative association where they would be liable individually for the debts of every other member, and I know of other communities where it would be entirely feasible. We might try in some communities the system which prevails in Italy. We have got to draft a liberal statute which will permit the organization of these unions, either under the unlimited liability co-operative system, or under limited liability and make it so elastic as to permit the organization in any form the needs and habits and customs of that community might justify. That is a recommendation made by the United States commissioner of agriculture.

GOVERNOR CAREY—You believe though in an actual small annual or semi-annual payment on the principal?

GOVERNOR O'NEAL—Yes, that is, as far as the mortgage debt is concerned. That is absolutely essential. With the annual payment you are reducing your debt each year, your interest is growing less. The general idea prevails in most of the countries when a man mortgages his farm he is going to lose it. But when it is understood you are mortgaging this farm to invest in the purchase of more land, or improve the farm, and each year your principal and interest are growing less, and at a certain period the debt is refunded or repaid, it will become as customary in this country as in Europe.

Now, the government, in bills which have been introduced, does not make it a condition precedent that there should be provisions in the state laws preventing redemption, as I understand, but they want to secure, as far as possible, some uniformity of law on that subject, and the bill provides for the commissioner of farm land banks, an office created for each one of these banks—I

mean for the central bank to be located in Washington—and provides that he shall make rules and regulations, with the advice of the secretary of the treasury to secure control of these state farm land banks. As I take it he will undertake to provide some reasonable regulations on that subject. There is no absolute proviso about the redemption. I think they absolutely require that all forms of land mortgages shall be exempt from taxation, and they will urge the passage by the state of laws simplifying land titles and guaranteeing, as far as possible, land titles, and they will urge that the methods of redemption shall be simplified and made uniform as far as possible. In our state we have two years, but my information is that in most of the states where property is sold under decree of the court, under foreclosure by the court, or where it is foreclosed under power given in the mortgage, authorized by certain states, there is no redemption authorized at all. Governor Baldwin, what is the law of your state?

GOVERNOR BALDWIN—In my state it is as you have indicated. There are two modes: To sell by a trustee, by deed of trust, or to foreclose by strict foreclosure in equity. That wipes out the entire interest of the judgment debtor.

FORMER GOVERNOR FORT—If there is no further discussion, I will put the question of Gov. Baldwin, which was that this report, as received, be accepted and placed on file.

Motion was unanimously carried.

Further proceedings were adjourned until November 11, 1914, at ten o'clock A. M.



## SECOND DAY

WEDNESDAY, NOVEMBER 11, 1914.

The Conference was called to order in the Senate Chamber, State Capitol, at ten o'clock A. M. by Governor William T. Haines of Maine.

GOVERNOR HAINES—Your Excellencies: I have been chosen by the committee to preside this morning. According to the program I know we have a real treat in store, a paper by Governor Spry of Utah, on "State Control of National Resources." This is a live issue before the American people, and I have no doubt you will enjoy the paper, and I hope you will participate in the discussion of the subject, which must be of general interest in all your states.

### "STATE CONTROL OF NATIONAL RESOURCES"

GOVERNOR WILLIAM SPRY OF UTAH.

The consideration shown the West by this distinguished organization, in providing for a representation and discussion of the western view of the natural resource question, is deeply appreciated. Involving, as conservation does, questions of public policy, questions of equity, and questions of consistency in governmental control and disposition of the public domain, it is a privilege to be afforded opportunity to discuss the subject with you, who, by reason of your familiarity with the practical operation of the national policies, past and present, are exceptionally qualified to consider, weigh and determine the merits of the claims that we of the West are making regarding the latest policy of the government as it relates to the handling of the remnant of the public domain of our nation.

You are acquainted with the problems of financial management in the particular states over which you preside; you know concerning the social, industrial, educational, economic and develop-

ment problems that confront the states, and, therefore, are in a position, I take it, to grasp the significance and full meaning of the representations which we shall make to you. You have doubtless met some of the trying problems with which we are now grappling. Perhaps you have found them less difficult of solution, because of your greater development and the larger financial resources at your command with which to meet them; but you have met these things, and, having met them, you will the more readily understand our position.

The voice of protest which has been raised in the West against the federal attitude in the matter of forest, mineral, hydrocarbon, and power withdrawals, and the withholding of powers and functions in the control and management of the public domain that heretofore have been largely delegated to the respective states, has been severely criticised by the unthinking, who have been led into a blind, but none-the-less enthusiastic support of a policy that appears to have been conceived in selfishness, and this earnest protest has been erroneously characterized as an effort to renew the old "States' Rights" question. Permit me at the outset to make it clear that I have no disposition to renew or even engage in a discussion of that subject. Our complaint is against apparent discrimination. The West protests against a most hurtful policy with respect to its public lands and appeals to the fair-minded in the older states to afford relief from the operation of a policy that is causing retardation in development, and which is being foisted upon it in the name of conservation.

I believe the governors of the public land states, to a man, recognize and respect, not only the right, but the duty of the Congress of the United States to control and dispose of the public domain and the public resources held in trust for the several states in such manner as in its judgment will best promote the common welfare. I believe, also, these governors recognize that management and control shall be exercised in accordance with the spirit of the constitution and in strict accord with the provisions of the trust grants under which the national government came into possession of much of its public domain; and, too, with at least a reasonable regard for conformity to policies and practices that, in the very nature of things, must be continued with-

out marked deviation if we would maintain as sacred and binding the very fundamental principle of our Union—equality in the sisterhood of states. Further than that, I believe the governors of the public land states stand shoulder to shoulder in their demand that those sacred compacts between states and nation, as set forth in the respective enabling acts, affirmed by the several state constitutions and sealed by the voice of the people in the various civil subdivisions, be kept in spirit and in letter, and not be subject to interpretation by bureau underlings whose rulings if uniformly wrong bear the striking characteristic of being uniformly against the states and in favor of the national government. The agitation for legislation to sustain these bureau attaches in their arrogated powers is a move of portentous concern to the public land states, and we are fearful that the campaign for the manufacture of conservation sentiment will result in measures that will work irreparable injury to our section of the country.

With that statement as a preface, and with a firm belief that you are as deeply interested in the promotion of the common welfare as were those illustrious men who evolved and established and maintained for half a century our liberal public land policies, I shall, without any attempt at a discussion of the legal phases of this important subject, endeavor to present to you a few facts regarding the acquirement, control and disposition of our public domain; a few facts regarding the present national attitude toward the remaining public lands and resources, and as many facts as possible, in the short time at my disposal, regarding the effect of this new attitude on the states containing the remnant of our public lands and resources.

The general union of the states under the Articles of Confederation was difficult of consumation by reason of the conflicting claims to the vacant western territory. Demanding that all this territory should be surrendered and thrown into a common fund, certain states whose colonial charters gave them no rights in the vacant lands hesitated to join the union, and Maryland went so far as to make the surrender of these lands by the landed states an indispensable condition of her accession to the union. New York, in February 1780, made the first concession in this regard by ceding her claims and in the same year Congress made

an earnest appeal to the states to follow the example, promising that the territory so relinquished should be disposed of for the common benefit and formed into republican states. Virginia complied with the request and Maryland ratified the Articles of Confederation in March, 1781. Georgia, however, did not relinquish title to her western lands until twenty years later.

Under the provisions of the Federal Constitution Congress was made sole authority in all matters relating to the lands of the nation. These land possessions were greatly expanded in 1803 by the cession of Louisiana by the French. A little later possession was taken of western Florida, and in 1819 the entire territory of Florida was yielded by Spain. Twenty-five years later Texas entered the union at its own petition. Then followed the acquisition of California and New Mexico by the treaty of 1848, after the war with Mexico. This acquisition of original Mexican territory was further enlarged by the Gadsden purchase of 1853, and in 1867 the lands of Alaska were ceded to the United States by Russia.

From a time antedating the adoption of the Articles of Confederation to the present day no matter of public concern has been more constantly before the American people than the question of disposing of the vast public domain of the United States. Various conditions had been attached to the cessions made by the several states, but all agreed in this one, namely, that the territory thus ceded should be a common fund for the joint benefit of the then and future members of the union.

Around the national policy in the disposition of the public domain, acquired not only by cessions from the various states, but by succession to Great Britain and by purchase, discovery and conquest, has waged a controversy that on the one side has found its supporters among those who maintained that the lands were an asset of the nation to be disposed of for the purpose of producing revenue only, and on the other by those who were of the opinion that they should be held by the government in trust only until a time when they could be released to the people for their use, which use contemplated occupation, cultivation and improvement. Prior to the adoption of the constitution, settlement on the public lands was not encouraged, it being thought that the sale of large parcels at auction would enrich the treasury to an

extent sufficient to liquidate the public debt. About a million and a quarter acres were disposed of in this manner prior to 1789. There was, however, at that time excuse for such a policy. The debts of the Revolution were a heavy burden upon the government, and people had ceded their lands in trust for the purpose of paying that debt. By statesmen who made a deep study of the cessions it has been asserted that many of the lands were turned over as a guaranty that the debts would be paid. Those debts were cleared during the administration of President Jackson. The theory, however, that the public lands should be regarded as a source of revenue early met with strenuous opposition. Before the British House of Commons Sir Edmund Burke had contended that any policy which would induce a more extensive settlement of the soil would most greatly benefit the government, and this doctrine was strongly urged by the minority in this country.

In 1790 Alexander Hamilton submitted a plan for the disposal of the public lands which embodied the fundamental principles of both colonial and present systems. In 1795 the present system of surveys was adopted in substance, and five years later government sales at two dollars per acre were authorized. Again, in 1800, this system was modified, and the credit system introduced at that time led to over-speculation in lands, with the result that in excess of one quarter of the purchases made prior to 1820 were forfeited to the government, and much distress was experienced by the settlers in the newly opened country in their efforts to comply with the purchase requirements. This law was repealed in 1820, and the price of lands again reduced to \$1.25 per acre with the further provision that all lands that failed of sale when offered at public auction could afterwards be purchased in unlimited quantity at that price.

More and more the utilization of the public domain in taking care of an ever increasing immigration became a necessity and stronger grew the sentiment that the land should be made easily available to the bona fide home-seeker. The long fight which was waged resulted in the pre-emption system, recognizing the settler above the speculator—a system which really found its origin in 1801 when Congress protected the settlers on lands which had been excluded from the original purchase made by Symmes, and

continued to grow under the active support of President Jackson, Senator Benton and others, until it developed into the pre-emption law of 1841, an act under which actual settlers enjoyed the right in preference to any one else to purchase at a fixed price the lands on which they had settled, to an extent of one hundred and sixty acres. With minor modifications the law continued in force until 1891 when it was repealed, after approximately two hundred million acres had been disposed of under its provisions.

One of the great champions of the policy through which the public lands were made easily available for the home-seeker was Senator Thomas Hart Benton, of Missouri, who towered as a national figure in promoting the interests of the West. Almost annually from 1824 till he saw his ideas in operation, Benton presented bills for the sale of lands at fixed, graduated prices. Of him and his views on this subject, Ex-President Roosevelt in his life of Benton has this to say:

"During Adams' term, Benton began his fight for disposing of the public domain to actual settlers at a small cost. It was a move of enormous importance to the whole West, and Benton's long and sturdy contest for it, and for the right of pre-emption entitle him to the greatest credit. He never gave up his struggle, although repulsed again and again, and at the best only partially successful, for he had to encounter much opposition, especially from the short-sighted selfishness of many of the northeasterners who wished to consider the public lands purely as a source of revenue. He bitterly opposed the then existing system of selling lands to the highest bidder—a most hurtful practice—and objected to the establishment of an arbitrary minimum price which practically kept all lands below a certain value out of the market. Altogether he assisted in establishing the pre-emption system and had the system of renting public mines, etc., abolished, and he struggled for the principle of giving the land outright to settlers in certain cases. As a whole his theory of a liberal system of land distribution was undoubtedly the correct one and he deserves the greatest credit for having pushed it as he did."

Continued advocacy of liberal policies in disposing of the public lands brought the question to the proportions of a national issue and resulted in the homestead bill of 1852, granting free homes to the landless settlers. Ten years later it was written into

law and approved by President Lincoln after a previous veto by President Buchanan. This bill marked a radical change in the system that has prevailed for eighty years, during which time the public lands had been largely treated as a direct national asset for the purpose of acquiring revenue. Under the provisions of this bill they were to be granted to actual settlers who would occupy, improve and cultivate them for a term of years and then receive a patent free of charge, upon the payment of fees sufficient only to cover the costs of survey and transfer of title. Three years after the adoption of this policy, President Jackson in his annual message said: "The homestead was established only after long and earnest resistance. Experience proves its wisdom. The lands in the hands of the industrious settlers whose labor creates wealth and contributes to the public resources are worth more to the United States than if they had been reserved as a solitude for future generations."

It was through the liberal land system of the national government that the waste places of the vast public domain were gradually reclaimed and made to provide homes and prosperity to the great tide of immigrants that flowed to this country. It was by reason of the liberal land policies that great manufacturing and industrial enterprises sprang up; that populous commercial centers were established; that states grew in the power and prestige that goes with wealth and population; and the while, the subduing and conquering influences of the home-builder were reaching farther and farther westward. The growth of the remote western territories was so vigorous as to win for them, one by one, the coveted powers of statehood, and admission into the union on terms of equality with the older states. Shouldering in confidence the increased responsibilities that came with statehood, these young members of the union set about the business of state building, serene in the belief that the land and resource capital within their respective borders constituted an asset on which absolute reliance could be placed.

Remote from the thickly populated centers, these western states waged a vigorous campaign of land and resource exploitation in an effort to put their capital on an earning basis. The soils were cleared and broken, and when turned and seeded yielded enormous crops; the mountains when penetrated revealed great de-

posits of the various minerals and hydro-carbons; the forests, on close examination, showed remarkable stands of choice timber; the mountain streams and rivers, when diverted to succor plant life, immediately became immensely valuable, and were found, after the advent of electricity, to be capable of producing almost limitless power for turning the wheels of the various branches of industry that were springing up. Altogether, the so-called desert and waste places of the North American continent gave abundant evidence of being among Nature's most favored localities, and spots where she had, with lavish hand, provided the valuable resources which, when converted to useful purposes, build up communities, states and nations.

A halt was suddenly called to this growth and development. Uncertainty took the place of confidence and a condition of paralysis overtook the west. The mildest language that one can employ in mentioning the causes that led up to this change of national policy and resulting stagnation to western resource development is that covetous eyes looked upon the heritage of the public land states and there appeared in the land agitators with conservation on their lips—a high sounding word that, while covering a multitude of meanings, none-the-less appealed to the American people as the word thrift would appeal to a Connecticut Yankee. Like cleverly worded advertising phrases it “caught” and so it transpired that six years ago there was held, on the invitation of President Roosevelt, at the suggestion of the Inland Waterways Commission, in Washington, D. C., the first Conservation Congress.

Called ostensibly for the purpose of considering the proper use of the mineral, land and water resources of the nation, as matters of vital concern to all the people of the United States, it was assumed that discussions would be confined to waste prevention measures, and that through the interchange of ideas there would be evolved a wise policy of foresight in the administration of the public domain—a policy which in its practical operation would have in view the needs of the future while adequately meeting the demands and necessities of the present. The Conference, however, developed into spectacular, wordy exploitation of alleged facts regarding the exhaustion of the natural resources. The moderate expressions of fear that wanton waste would work



a hardship on future generations, that were employed to attract men of prominence to the councils of the Conference, were relegated by a self-appointed coterie of resource guardians, who, supported by extravagant statements regarding the depletion of the land, timber, mineral, coal and power resources of the country, raised a hue and cry that brought the startled nation abruptly to the very brink of a yawning chasm of resource famine. Statistics were presented, and at the time undisputed, to prove that in a very short time the vast mountain ranges would be stripped of ore, that the iron age would be a thing of the past, that people would actually suffer from cold for want of coal, that the medium of exchange would have to be abolished—in short that the great American Republic, rich as it was popularly supposed to be, would soon face a veritable bankruptcy of public resource.

State executives departed from this first Conservation Congress with the understanding that the several states would have influence, if not voice, in shaping a new and wiser policy of public land administration. Subsequent developments have proven, however, that the forces behind this movement had no such idea. The deliberations and conclusions of succeeding conferences have been more and more dominated by government officials and bureaus. In the meantime the continued cry of resource famine has made its impression on Congress, as reflected in the measures extending the powers of the president in land, mineral, timber, oil and power withdrawals; and the presidents, on ill-advised recommendations, based on hasty field examinations, have exercised their authority in extensive withdrawals that are most seriously retarding development in the very sections of the country that stand most in need of the vestment of the public domain in the hands of the home-builder and those who are willing to develop it on the most liberal terms.

It is objection to this new policy of resource administration, the outgrowth of the conservation movement, that has been termed a renewal of the old "States' Rights" question—a characterization of our protest decidedly unfair and calculated to prejudice our position in the minds of many who would look with disfavor on the revival of that disagreeable controversy. As to our view on the subject. With the fact firmly established that

states are admitted into the union on terms of equality, consider that the nation has operated for many years under a liberal policy in the disposal of its lands; that the liberal land system has been fundamentally responsible for the growth, development and wealth of the great centers of the east; that an empire within an empire, the great empire of the West, is retarded on the threshold of an era of development that from all indications will eclipse the wonderful growth of the East; that the sale of agricultural land was primarily responsible for the increase in population in the East; that the development of the mineral and coal resources added to the wealth of the East and that the use of all the bounteous gifts of Nature made the East what it is today.

Because of the extravagant representations heretofore mentioned the former liberal policy of the government has been materially curtailed; vast areas have been withdrawn from entry; new and radical departures in the regulations governing the handling of mineral and oil lands have been adopted and the cry is going up for government ownership of all power sites. Under this policy the states wherein the public domain as yet lies practically in its virgin state are deprived of that benefit that accrued as a direct asset to the older states through the disposal of the public domain and utilization of the public resources thereon. It is obvious that the development which came to the older states through the vestment of the land in individuals will be denied the younger and less developed states and that while the greatest direct benefit of the former liberal policy accrued to the individual states wherein sales were made, the direct benefits, not only from the sale, but from the development, of the public lands in the western states, under the proposed policy, will go to all the states of the union, being distributed as a common fund, which common fund, in the past, has rarely been appropriated by Congress for internal improvements in the West.

Suppose the government leases its mineral, coal and oil lands and water power sites and remains forever vested of title. Who can estimate the loss in revenue from taxation that will be suffered by the states wherein these valuable resources are located, which revenues have for years been accruing to the older states and will continue forever to accrue because their resources have been vested in private ownership and are subject to taxation by

the states—a thing which it appears will be utterly impossible under the leasing system so long as the government holds title, since government lands cannot under the constitution be subjected to taxation?

This phase of the leasing system alone condemns it as a policy in absolute violation of the spirit of equality of rights in the public domain. A material factor in the growth and development of a state is the distribution of the burden of taxation. Take from the state its right to tax mining claims, the mineral and oil output, the coal product, and the power sites within its boundaries and you rob the commonwealth of a revenue that has been a source of ever-increasing income to the older states, and increase, rather than diminish the tax burden the freeholder is already called upon to bear. This, indeed, is a most serious matter to the public land states. Take, for instance, the state I represent, Utah, with an area of 54,380,000 acres has but from ten to twelve millions of acres in vested ownership or process of transfer, and much of that consists of grazing lands that yield but slight income through taxation. If our sources of revenue for local self-government were adequate to the increasing demands, or if our revenue were in excess of our needs and we were squandering the income I grant this national curtailment of state development through land withdrawals would not be so serious, but it is a fact that additional land ownership, with improvements, more extensive mining operations, greater power development and all those activities that make for a prosperous community are imperative necessities in Utah to keep abreast the expense of maintaining schools, state government, state institutions and carrying on internal improvements. During the biennial period 1913-1914, Utah will expend for purely educational purposes approximately eighty-eight per cent of its entire state revenue from taxation, and when I tell you that in arriving at that percentage public utilities, net proceeds of mines and all assessments made by the state board of equalization are included with the taxes levied on real estate, personal property, improvements and all other taxable possessions, you will realize that we are devoting our income to worthy objects. You will realize also that we are facing a very serious problem and our need for a continuation of those policies which have been the most potent factors in the development of

our sister states is a great one. It is not so much a question as to whether national or state governments shall control the lands and resources as it is an absolute necessity that the lands and resources be placed in the hands of industrious settlers who will develop them, thereby adding to the material welfare of the states in which they lie and the greatness of the nation of which the states are a part.

It is but a short step from the mineral leasing system to the leasing of agricultural lands. If it is proper that the sturdy pioneer prospector who stakes his all on a chance that he will add to the mineral production of the country; the man who invests his money, his talents, his energy, the sweat of his brow, in delving after the mineral deposits of the nation, and who, after the expenditure of his means finds a "pay streak" installs machinery, opens up a vein of ore, which, but for his persistence would have remained hidden for centuries, perhaps, must turn over to the federal government what he has found, and if he will continue to develop it, he must do so as a lessee, why should not the same policy be proper in handling the agricultural lands? Why not let the homeseeker select a piece of raw land which he regards as a possible producer of agricultural products, clear it of sage brush, plow and seed it, and, if in the arid section of the United States, let him, at his own expense, acquire and deliver to that land the water which is necessary to produce the crop, and then, if the experiment be a success and he secure a crop, let him become a lessee of the federal government and work his land, not as an independent freeholder, but as a tenant of the national government which becomes his landlord? How long, can you tell me, will we be compelled to wait on the national government to put the agricultural, mineral, oil and coal lands in a condition for tenancy? Aside from this, landlordism has ever been autocratic, overbearing, while tenantry has developed people who lack in the two most necessary qualities of American citizenship—loyalty and patriotism. In Utah we have been building our state by urging the people to own their homes, to own their places of business, and to own the business in which they are engaged, and it is the only policy that will make for that kind of citizenship which will perpetuate the American form of government. Tenantry is repugnant to the ideals of American citizenship.

You will agree, I think, that there are two distinct views of the conservation question—the one, which, unfortunately, has been the official view—narrow, selfish, looking altogether to the welfare of generations yet unborn, totally ignoring obligations of trusteeship, and brushing precedent aside so ruthlessly as to render experience an invaluable thing; and calculated to enrich the general treasury at the expense of the younger and financially weaker states. The other view of those who recognize a tendency toward extravagance in the improvident drafts on the natural resources, and who, recognizing the evil, have a sincere desire and termination to avoid waste, but continue development.

In the beginning, we are informed by Holy Writ, after creating the heavens and the earth and all that in them is, God created man and gave him dominion over the fishes of the sea, the fowls of the air and the beasts of the field and bade him use all things created. That dominion man has always held and exercised and in so doing has been compelled to draw upon the resources largely in accordance with the day and generation in which he lived. Up through the various stages of civilization man has been compelled to gain his living by the use of the things over which God gave him dominion, and so long as civilization endures, so long, indeed, as intelligent beings exist, man must continue to live through some method of utilizing the resources about him, and the success of his struggle for survival and advancement will be measured by his ability to understand and make those resources useful to his purposes with least extravagance and loss.

The one important consideration in connection with the handling of our resources, overlooked by the conservationist, is the fact that primitive man made but primitive drafts upon the resources which he found most easily available and convertible, and just so long as those drafts were primitive, man remained primitive; when modern man made requisition on Nature's store-houses civilization had attained a much higher perfection.

When men lived in mounds and caves, the forests were slightly disturbed, and civilization was not very far advanced; when they rubbed sticks to make a fire, sulphur was not being exhausted; when they paddled in canoes and traveled overland by horseback, our steel deposits were aging in the everlasting hills; when men went whaling for blubber to make candles, electricity was un-

known and this powerful and subtle force was a mystery of the elements; when men gathered a few sticks of driftwood to cook their meals, the coal deposits were unmolested; when scribes were a rarity, if not a novelty, and historians carved hieroglyphics in stone, wood pulp was not even in demand; and when men were content to merely exist, the demands that manufacture, trade and commerce have made upon our natural resources were not even dreamed of.

Look conservation squarely in the face and answer: would you exchange the modern home with its accessories and comforts, made possible through the use of the natural resources, for the dug-out of the man who made his home in the mound, or the habitation of the cliff-dweller? Would you exchange your sulphur match for the wooden stick or flint of days gone by? Would you barter your electric lamp for the candle made from the blubber of whale? Would you give up your modern sea vessel or twentieth century steel train, your automobile, for the canoe of your forefathers, the horse of the mail carrier or the one-hoss shay of your ancestors? Would you give up your newspapers, your magazines, your libraries, your text books, for the tablets of stone? Would you silence the busy machinery of manufacture, would you stop the wheels of commerce to go back to the life of a century ago? Would you exchange all or any of these accessories of modern civilization for every atom of natural resource that entered into their making?

Would any one of you, having at heart, first, the true interests of your country; second, the welfare of the state you represent; and, third, the well being of your fellow man, exchange one hundred families, who were willing to temporarily forego the comforts of life and locate on the public domain for the sacred purpose of homebuilding, uproot the sage and greasewood, drive the plow into the parched earth, conserve the sunshine, the rain, the snow; make the land fruitful and pleasing to look upon where before it was a barren and dreary waste; drive the lean and hungry coyote one ridge farther back toward the fastness of the mountains; would you exchange one hundred state builders for a forest reserve, with a small stand of timber, a vast area of sage brush and a forlorn hope that seeds from Germany will produce timber for the use of generations yet unborn?

In his message to congress, December 4, 1832, President Andrew Jackson said:

“It cannot be doubted that the speedy settlement of these (public) lands constitutes the true and best interest of the republic. The wealth and strength of the country are its population and the best part of the population are the cultivators of the soil. Independent farmers are everywhere the basis of society and true friends of liberty.

“In addition to these considerations questions have already arisen and may be expected hereafter to grow out of the public lands which involve the rights of the new states and the powers of the general government, and unless a liberal policy be now adopted there is danger that these questions may speedily assume importance not now generally anticipated. The influence of a great sectional interest when brought into full action will be more dangerous to the harmony and unison of the states than any other cause of discontent and it is the part of wisdom and sound policy to foresee its approaches and endeavor if possible to counteract them.

“It seems to me to be our true policy that the public lands shall cease as soon as practicable to be a source of revenue and that they be sold to settlers in limited parcels at a price barely sufficient to reimburse the United States the expenses of the present system and costs arising in our Indian compacts. The advantages of accurate surveys and undoubted titles now secured to purchasers seem to forbid the abolition of the present system because none can be substituted which will more perfectly accomplish these important ends. It is desirable, however, that in time this machinery be withdrawn from the states and the right of sale and the future disposition of it surrendered to the states respectively in which it lies.

“The adventurous and hardy population of the West besides contributing their equal share of taxation under our impost system, have in the progress of our government, for the lands they occupy, paid into the treasury a large portion of \$40,000,000 and of the revenue received therefrom but a small part has been expended amongst them. When to the disadvantage of their situation in this respect we add the consideration that it is their labor alone which gives us real value to the lands and that the

proceeds arising from their sale are distributed generally among the states which had not originally any claim to them, and which have enjoyed the undivided emoluments arising from the sale of their own lands it cannot be expected that the new states will remain longer content with the present policy for the payment of the public debt. To avert the consequences which may be apprehended from this cause to put an end forever to all partial and interested legislation on the subject and to afford to every American citizen of enterprise the opportunity of securing an independent freehold, it seems to me, therefore, best to abandon the idea of raising the future revenue out of the public lands."

In the United States and Alaska there is a total area of 2,315,310,728 acres, including a water surface of 34,000,000 acres. The great bulk of this area was at one time or another a part of the public domain. It is not only interesting as a matter of history, but imperative as a matter of information, if we would pass intelligent judgment on the present public land question, to ascertain how this immense estate has been divided and distributed.

Eighteen states—Connecticut, Delaware, Georgia, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, South Carolina, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, and West Virginia,—retained exclusive jurisdiction to all the lands within their respective borders, and Texas, on admission to the union did likewise. All told, these states reserved jurisdiction to 473,712,320 acres (including the District of Columbia) or 20.47% of the entire area of the United States. In the eighteen states of Alabama, Arkansas, Florida, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota and Wisconsin are 701,383,480 acres, or 30.04% of the total area of the United States. On June 30, 1913, according to the report of the Commissioner of the General Land Office these states contained but 7,914,929 acres of unappropriated and unreserved public lands. In the eleven remaining states—Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming—commonly called the public land states—there is a total area of 761,044,620 acres, or



32.88% of the total area of the United States, of which 290,016,757 acres, or 38% was unappropriated and unreserved June 30, 1913. The government reservations at that time within these states approximated 191,797,151 acres, so that about 63.3% of the total area of these states is still awaiting settlement. The remaining 10.63% of the total area is in the territory of Alaska, which embraces 378,165,760 acres.

In pursuance of the national policy regarding reservations out of the public domain of such parcels of the public land as may be necessary for the common defense or the general welfare, or in other words such as are required to be appropriated for national uses immediate and expectant, Congress has established from time to time military and naval reservations, Indian reservations and light-house reserves, and in addition, in furtherance of the conservation idea has established parks, national monuments and forest reservations. While these are intended primarily for the benefit of the whole of the United States, it is interesting to note their location.

United States Indian reservations, according to the latest available figures, June 30, 1912, embraced 38,903,388 acres, of which 32,752,630, or 84.2% acres were in the eleven public land states.

The total area of national forest reserves, June 30, 1913 (exclusive of Alaska, 26,748,850 acres, and inclusive of Porto Rico) was 159,867,798 acres. Of this 152,945,148 acres, or 95.67% were in the eleven public land states.

On June 30, 1913, there were twenty-eight national monuments in the United States and Alaska, embracing 1,508,627 acres. All but 1,337 acres were in the public land states.

The national parks have an area of 4,606,153 acres. The public land states contain 97% of this area, or all but 13,061 acres, and the Secretary of the Interior, in 1910, urged that the four parks embracing this area be ceded to the states wherein they respectively lie.

These reservations total an area of 204,885,967 acres, exclusive of Alaska, and 93%, or 191,797,151 acres are in the public land states of the West.

Now, gentlemen, one skyscraper in a desert does not make a city, nor do a number of office buildings. A city grows by reason

of the fact that the country surrounding it is owned and farmed; because it is furnishing lumber, because it is producing ore, or because the river on which it is located accommodates commerce or produces power. One city does not make a commonwealth. It takes many cities with many farming, stock-raising and mining communities to make a state and a state becomes great only as population increases and enterprises are developed. One state does not make a nation, and the seat of government and the great commercial centers are what they are only by reason of what is back of them. And that something back of them is the constructive and development force that supplies the arteries of the nation and makes it great. It is the pride of every American that this great nation occupies its present high position among the countries of the world and it should be the individual responsibility of every citizen to see to it that in the future the United States shall hold none but first place among the nations. That position can be maintained only through unceasing activity in development. It matters not in what section of the country our enterprises are curtailed through the operation of laws or policies of the national government, the moment stagnation overtakes development and enterprise any place in this broad land, the curtailment is disastrous to the immediate locality and will surely be reflected in national shrinkage.

The natural resources within the given boundaries of a state, whether vested in private, state or federal ownership, constitute the capital upon which that particular state must conduct its business and that capital should not be impaired by stagnation. The business of the government and the business of the states is being properly conducted only when the public lands go to the bona fide home-seeker, when the minerals are being converted into wealth, when the waters are being used for navigation, irrigation and power, and when the timber is being cut to build homes, school houses and public buildings. And the capital of the nation and the state and the individual is being most seriously impaired when the use of these great natural resources whose use creates life and prosperity is so restricted as to prevent their free and unlimited development.

If we cannot utilize our resources to produce valuable results then we are poor, indeed, since poverty is the lack of property

and adequate means of support. Our plea is an appeal for opportunity to make useful and profitable the great resources at our doors. We need and must have them, and, as I have before stated, the question of who shall control and dispose of them is a matter of minor importance compared with the need that they be placed in the hands of those who will develop them; and the necessity that transfers be made without the red tape and uncertainty that characterizes such conveyances as are now made of the public lands. When state selections are clear-listed to the states and the states, in good faith, enter into contracts of sale with bona fide purchasers, it is but reasonable to demand that the national government, which through its field experts has examined and classified the lands, permit titles to pass without involving purchasers in expensive litigation and without placing the states in a position where they cannot live up to their contracts.

That is what we are experiencing in Utah today. Aside from the fact that a great percentage of our lands have been withdrawn from entry, the titles to many of our school sections which we attempt to sell are clouded by arbitrary department rulings and local land office decisions to such an extent that people hesitate to enter into contracts for their purchase; and all this in violation of the land grants under the enabling act of the state.

The West solicits no sympathy, asks no favors, pleads for no advantages, but demands consistency and fair play and equal opportunity with her sister states in handling her resources.

GOVERNOR SPRY—I am sorry, gentlemen, that I cannot display this (a map of the state of Utah) any better than I may be able to do, but, in order that you may get a fair idea of conditions as they prevail in the public land states of the West, I desire to present this map of Utah. The dark part of the map represents the public domain and, as statistics convince us, there is only approximately thirty per cent of the land of Utah to-day that is bearing the burdens of taxation. The other seventy per cent is in government control and is producing absolutely nothing whatsoever toward the maintenance of state government and the support of our schools, and, as I say, what I say of Utah I say of every Western state. Am I not right, gentlemen of the Western states?

GOVERNOR AMMONS—You are. Less than twenty-five per cent of ours is bearing the burden of taxation.

GOVERNOR STEWART—Yes.

GOVERNOR SPRY—Here is one of the most prosperous portions of our state, Wasatch county, right close to Salt Lake City. There is to-day 92.7% of land in that one county alone that is not taxed.

GOVERNOR WALSH—What kind of land is it?

GOVERNOR SPRY—It is mostly tillable land. Right in Salt Lake County itself there is to-day 28% of the land that is not taxed. In San Juan county, one of the most prominent sections of our state, there is 91%, and so I could illustrate every one of the counties—another one 82.6%. The government owns that land. So you can readily see the condition that the public land states of the West may be in, and the handicap and the burden. Take, for instance, my own state: I said to you in the paper that we were paying from all the funds derived in the state from taxation over 88% for the education of our children. We have perhaps 400,000 population. We are a mere handful of people. Out of that 400,000 population we have approximately this year 116,000 school children between the ages of six and eighteen years, who are non-producers of course. Take the average family of five, and it will bring down to a basis—what shall I say—sixty-five or **seventy thousand wage earners** who are carrying the entire burden of the state government out there in Utah. And when I say Utah I refer to every other western state. The people are carrying a burden that they cannot bear. That is all there is to it, and it must become necessary, sooner or later, for the Federal Government to exercise a more generous policy in their dealing with the public domain of the United States. Otherwise we cannot answer as to the future of our prosperity and our happiness. We must have relief. It comes, and will come each year more strongly in the nature of a demand.

GOVERNOR WALSH—Do you have to maintain highways through this land?

GOVERNOR SPRY—Oh, yes.

GOVERNOR WALSH—That is, the state has to maintain them?

GOVERNOR SPRY—We get some slight assistance from the Federal Government.

GOVERNOR WALSH—Just what expense is the public land to the state?

GOVERNOR SPRY—No particular expense, but on that public land, in our forest reserves, our cattle, our sheep and our horses pay a certain revenue to the Federal Government for supposed maintenance.

GOVERNOR AMMONS—On this one question of expense, we have every expense of jurisdiction.

GOVERNOR SPRY—We have to police it, of course.

GOVERNOR AMMONS—Courts are a most expensive luxury out there.

GOVERNOR WALSH—Are there people living on those lands?

GOVERNOR AMMONS—A good many. You have to do business there, if you live in those sparsely settled countries.

GOVERNOR SPRY—I was going to remark, we are paying a certain head tax for the cattle, sheep and horses grazed upon the public domain. The Federal Government returns to the public land state 25% of its collections, which is to be used in our country schools and for the maintenance of the roads.

GOVERNOR WALSH—In the counties where the land is located?

GOVERNOR SPRY—Yes.

GOVERNOR-ELECT KENDRICKS—That is forest reserve?

GOVERNOR SPRY—Yes. Aside from that we have places where, as a matter of fact, a tree never has grown, that they have taken in as forest reserve, and a man can travel half a day in the summer time and not find a tree under which he can rest and shade himself from the summer sun. That is the difficulty with the question. It is not a political question. Both parties in Congress, as they have had control, have given to the West about the same sort of consideration. So I have no desire to make a political issue of it. I thought I would present a few facts as they are, and leave them for your consideration.

GOVERNOR HAINES—I know you have all been greatly instructed, and much interested in the paper which has been read. The program as I have it before me, contemplates a continuation of this subject in the afternoon.

Now, I have an announcement to make, which I wish you would bear in mind before we proceed any further. That is, the Governors, Former Governors and Governors Elect, and their wives,

or the parties they have with them and others in the Conference, will be the guests of the Wisconsin University at luncheon to-day at one o'clock. The trip will be made by street car. The car will be provided for us at the hotel at just 12:45, so it is necessary for us to get through here in order to have time to go to the hotel and take that car to meet that appointment. I know of no reason why we should not continue this discussion perhaps twenty-five minutes longer, until twenty minutes past twelve, when I will call a halt to it. The luncheon is entirely informal. Adjournment at 12:25 will give us twenty minutes to go to the hotel and get the car, if it is thought that will be time enough. Therefore, if someone will make a motion that when we adjourn we adjourn at twenty-five minutes past twelve to whatever time you see fit this afternoon, then we will know what we are to do in the future. Someone suggests three o'clock.

GOVERNOR MCGOVERN—I will make such a motion.

(Motion unanimously carried).

GOVERNOR HAINES—The chair awaits now the pleasure of the meeting with reference to discussion of the paper.

The paper certainly is most interesting. The subject is one that is not confined to the Western states, I want to say. I notice the small per cent of public domain that was originally in the Eastern states named by the gentleman who read the paper, and my mind went back over the controversies and continual controversies that existed in the state of Maine from 1820, and prior to that in Massachusetts, over the public lands which were in the states' control, and even to-day the most fertile question for the demagogue is the question of the ownership of public lands. It is not free from discussion because it is under state control.

Our public lands in Maine were first used by Massachusetts to establish the colleges and schools and academies. After the separation they were next used by the state. They were the public resources. We built our state Capitol from the sale of ten townships. We next made a long military road through the state from the sale of ten more townships. Then we gave them to our schools and colleges again in the state. Then they went through the period of speculation referred to in the thirties. They were bought up in large quantities, at high prices, and then they were reduced to ten cents an acre. People failed. The law of promis-

sory notes of this entire country, the common law, is largely settled by the courts, by the litigation that grew out of the notes in the thirties in the state of Maine. You will find the leading decisions—you lawyers know it—coming from Maine on the doctrine of negotiable instruments. It was the great period for settling the law. And still now, after all these things were done by the mother state of Massachusetts, and by the state of Maine, and we have had no public lands to speak of since 1876—all been sold—we have the agitator, dissatisfied, discontented man, who blames everything that was done in the past in regard to the public domain, and who is seeking now by this movement in the east, particularly in my own state, to restore certain lands to public ownership, and the Federal Government even proposes to come into our state and take possession of certain territory, Mt. Katahdin included, and make public parks of them.

So, as I say, the question, Mr. Governor of Utah, is not confined to the West. It is still a live question wherever an American citizen lives, I think. I was very much interested in your paper, as I know we all were, and I hope we will take plenty of time to discuss it. It is certainly a live economic question for the people of the nation. It is not a political question, I do not think, because men of all political parties divide upon it, as they do upon all economic questions. It will be a great advantage to me, as I know it will to other members of the Conference, if we can hear expression here of the sentiments of the different states on this very important question. If we may not be able to do it in the next twenty minutes I hope the afternoon will be given up most freely and fully to discussion of this subject.

GOVERNOR STEWART—Mr. Chairman, I move that we adjourn until afternoon. This is a matter that will require rather lengthy discussion and I do not believe it will serve the purpose very well to begin with the few minutes at our disposal.

GOVERNOR HAINES—I have another announcement: Mr. T. S. Adams, of the Wisconsin Tax Commission, and secretary of the National Tax Association, has a message from that Association, that will take about fifteen minutes to deliver.

GOVERNOR MCGOVERN—I move unanimous consent be granted Mr. Adams for the presentation of his message.

(Motion seconded and unanimously carried).

PROF. T. S. ADAMS, Wisconsin State Tax Commission—Mr. Chairman and Gentlemen:

There might be some impropriety in the secretary of an outside association coming before this body to plead a cause, if it were not for the fact that like your own organization, the National Tax Association is a society organized purely *pro bono publico* and having as its chief aim the introduction of uniformity in tax legislation, to the end that double taxation and other manifest evils may be abolished. The officers of the association work without any compensation. But perhaps the strongest reason why we may claim a few moments of your attention is the fact that the delegates who control the national conference convened by our association are appointed almost wholly by yourselves—that is to say, the governors of the several states. Moreover, to assure you that there is nothing improper in our activities, we have an unbroken, unwritten rule to adopt no policy that is not endorsed by the unanimous opinion of our members, so that any positive action taken by our association is almost certain to be wholly devoid of anything objectionable.

The National Tax Association at its last meeting adopted a report looking towards action in connection with increasing public expenditures and taxes. Our association cannot start any very dramatic or very radical movement, but it was decided to secure the appointment in each state of a man whose duty it will be to secure, if possible, legislation looking to the prompt publication of official statistics relating to expenditures and taxes. What we aim at is the publication in simple understandable form of figures showing what counties, townships, villages, cities and the state government have spent in the preceding twelve months; what they propose to spend the next year; what changes in the tax rate will probably be required and similar information designed to attract public opinion and bring it to bear upon the wisdom and desirability of the changes proposed. We hope to have a man introduce legislation of this kind in practically every state which does not have such legislation at the present time. I am here primarily to ask you if you will not interest yourselves in this movement and give these men the benefit of your counsel and assistance. So far as we are able to see there can be no reasonable objection in any quarter to this program.



We shall take similar action, I may add, with respect to Congress and ask for the publication by the census bureau of state statistics of similar kind, so that interstate comparisons may be fair and accurate, and so that the rather misleading and objectionable comparison between the financial activities of the various states—which is so common in political campaigns—may be placed on the most trustworthy basis possible.

We plan also to arouse an active discussion of the efficacy of tax limit laws. We do not formally endorse such laws but desire to arouse an investigation and study of their possibilities. Tax limit laws have in their old form been a by-word for inefficiency. They have not in most states accomplished what they were designed to do. In Colorado, West Virginia, Ohio, and perhaps in some other states, however, tax limit laws have been passed which in the opinion of those engaged in the administration of the laws have frequently proved practicable and exceedingly helpful. We desire to bring before the legislative bodies for active discussion the question whether such laws in proper and approved form cannot be made helpful in securing economy and efficiency in government.

We hope also that you gentlemen, the governors of the various states, will continue to exhibit in the future the same interest that you have exhibited in the past and will appoint to our national conferences delegates who are interested in the great subject of taxation and who will attend our meetings and help make them profitable. We hope also that an increasing number of states will co-operate with us in securing the dissemination of our publications. Our proceedings and various reports are filled with instructive matter to tax officials, tax assessors and tax payers. The association has no axe to grind, no pet reform to push, no hobby to ride. It aims to be helpful and serviceable in securing saner and more business-like methods of taxation and in improving the efficacy of tax administration. The officers of the association are straining themselves individually to make this work effective and we ask your co-operation. Most of all we want your assistance in the securing of publicity—rational publicity—with respect to increasing taxes and expenditures to the end that the average voter can understand these questions and pass an intelligent verdict upon them.

I thank you very much.

GOVERNOR HAINES—The meeting now stands adjourned until three o'clock.

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## AFTERNOON SESSION

The afternoon session was called to order in the Senate Chamber, State Capitol, at three o'clock.

GOVERNOR MCGOVERN—In the absence of Gov. Haines, who presided this morning, I will take the liberty of calling the Conference to order and announce that Gov. Hall of Louisiana will preside this afternoon.

Governor Hall took the chair.

GOVERNOR HALL—The Conference will be in order. We were fortunate this morning, gentlemen, to hear the very able and instructive address delivered by the Governor of Utah. The subject matter of that address is now open for discussion.

GOVERNOR AMMONS—Mr. President: I think every one feels that Governor Spry this morning presented this Western problem in a very able way. The western governors have had many talks among themselves at the general conferences and at the local conferences which they have held, and they are pretty well united, having adopted a platform, if you please to call it such, outlining their position. The thing that interests us particularly in the West is this: We think our position has never been fairly met. We feel that through some things which we do not fully understand the people of the East have been misled and are taking a position that interferes with the proper settlement and development of the West, without realizing they are so doing. We have a number of eastern and southern governors here. We are told by our representatives in Congress that nothing can be done because of the sentiment in the East in favor of ultra conservation.

Now, we do not want to assume a position where we are asking for anything that is not right, but we do feel that in an assemblage of this kind, which represents the states and entities, that

it is very proper for us to ask what the position of the East and the South is that prevents us getting what to us seems so plainly our due. And I do hope that some of those who are living in communities which we understand are saturated with the belief that is controlling Congress will at least tell us what the grounds of those sentiments are. We are not coming to these Conferences except to learn. We presume that others want to. We believe that one of the main objects of the Governors' Conference is mutual help for the states. It is the only organization, the only meeting in the country, where that is possible. If some one can show me where Colorado is wrong, or Governor Spry, where Utah is wrong; or Governor Carey, where Wyoming is wrong; or Governor Stewart, where Montana is wrong; we will be greatly obliged. We have done our best to call the attention of the country at large to what the condition is out there in the West. The reason we have not been able to do so fully to us is pretty plain. At one time, when many of the magazines were full of so-called scientific, I suppose, independent articles on conservation, we were unable to get one single blessed line in any great magazine in this country to explain our side of the question, although we took the trouble to send east and get some of the very best writers.

Now, we asked to have this subject put on the program. It is a dear one to us. It affects the very vitality of our state governments. It affects the settlement, the growth, development and the prosperity of our states. We want to grow. What we want to do in Colorado, and out in Utah, and in Wyoming, and those other states, is to be able to build a university like yours in Wisconsin and to build buildings like the one in which we are meeting to-day; but we cannot do these things unless we have resources, unless we have lands, and the resources that take their place where the lands are not available, to tax in order to raise the necessary funds. So I am making this modest request for an explanation. We would like to know why it is that the poor devil who has gone out in the American desert, worked a lifetime building a ditch or digging a mine, or making some other improvement that adds to the protection and the wealth of this great country, is termed on the floor of the House of Representatives a "looter of the public domain." We think he has done an everlasting benefit to his country.

GOVERNOR HALL—Gentlemen, the Conference would be very glad to hear from any governor on this very important question under discussion.

GOVERNOR STEWART—Mr. Chairman and Gentlemen of the Conference:

I was in hopes that some person would respond to the invitation of Governor Ammons to present views along the line indicated, but as no one has done so, it has occurred to me that perhaps a few words in support of the views of the gentleman from Utah might not be out of place. I have been much interested in the subject for a long time. I have come in contact with public land matters, with settlers and claimants, desert entry men, mining claim locators, and all of that class of people, for a great many years, and I realize that until recent years there had not been a very thorough or general understanding of the laws or the conditions pertaining to those things. We have been, to some extent, isolated in the western country, and have been left to work out our own salvation until about ten or twelve or perhaps fifteen years ago, when the general public began to take more interest. Just what actuated that interest it is perhaps difficult to say. However, the one thing that was apparent to us was the predominating idea of handling the resources of this nation as revenue producers for the government. That, of course, did not meet with favor in the West. We do not believe that this is the proper theory. The Western idea has been, generally speaking, that the quicker the public lands will pass into private ownership the sooner will that section of the country be developed and the more substantial will be the growth and the development.

Governor Spry has set forth at considerable length and after considerable research, facts and figures of greater magnitude than I have heretofore seen compiled. I do not believe that his conclusions, deduced from the facts and figures presented, can be successfully controverted. We all realize, when we stop to think about it, that originally all lands were public lands. Of course, the land question has been handled in different sections in different ways. The theory that appeals to us as being unfair, however, is the one whereby those certain sections of the country which have utilized their public lands, have eaten their pie, as it were, now attempt to prevent our utilizing or consuming ours.

It is said that waste and extravagance characterized the opening of the public lands in the states of the Middle West. I doubt it very seriously, however. There are no real evidences at this time of either waste or extravagance in the opening up of the lands or in the building up of the country in that territory.

But anyhow, the view entertained by certain ultra conservationists has retarded the growth of our country to a great extent. Land grabs and land frauds in the West are partly responsible for this. Big cattle, sheep and timber companies, and others desirous of getting large areas of land for private purposes, did take undue advantage, and employ unlawful means to get title to large areas of land. They had cowboys and sheepherders and different nondescripts file on the land. But those instances were the exception rather than the rule. It is unfortunate that they have formed a basis for a suspicion of everyone who has any desire of reclaiming a piece of public land. Up until a few years ago it was considered a laudable thing for a man to go out in the new country and become a pioneer. It was considered a matter of commendation that a citizen should see fit to go out and endure the hardships of the pioneer in developing a homestead on the public lands. Because, as someone has said, he merely went out and bet five years time and whatever resources he might have at that time, with the Government, against 160 acres of land, that he would not starve to death. It was considered laudable. But, beginning with about twelve or fifteen years ago there arose a sentiment in the minds of some people that any man who sought to take title to a piece of government land should be viewed with distrust and suspicion, and there arose a system in the handling of the land affairs of this nation that fostered that suspicion.

For instance, they set in motion a system of examinations, by young men mostly, who were nephews or grandsons of congressmen or senators in the East, or who had some other political pull. They sent those young men out over the West to examine homestead entries and to see whether or not these fellows had complied with the law. And they began to lay down strict rules that required cultivation of considerable areas, required substantial improvements on the homestead and on the land sought to be taken under any of the other public land statutes. These fellows

figured that they were not doing their duty unless they were able to report adversely on a large number of the cases assigned to them. They had a wrong viewpoint to begin with. They would view a homesteader's layout, and if they did not find a beautiful big house and a nice red barn, and a lane with hedge rows on each side, and fences, and all of the modern improvements that were present on Eastern farms, the homesteader suffered. If they found that the homesteader had a shack in which he was sheltering his family, or that he had been unable to fence all of his land, and, perhaps, instead of putting in all of his time developing the land he had been forced to go out and work by the day or by the month in order to get money to buy groceries and fencing, or to get other necessities to keep his family, or to assist in the improvement of his place, they would immediately say: "This man is not acting in good faith; this man is merely trying to get title from the government for speculative purposes." They would report adversely, and those poor devils, after living on the homestead and putting in their time and money, would lose the land.

Now, their theory was wrong. We all know it is the policy of the government that land should only be taken for homestead purposes in a bona fide way, but we all know as well that every man who goes out and takes a piece of land is more or less of a speculator. This has always been so. He hopes when he has proved up and acquired title he will be able to sell his land, as he saw his forefathers do in the older parts of the United States. The result was that these examiners retarded the growth of our section of the country. All of the public land sections were at a standstill for several years by reason of what we term unfair administration of the public land laws and affairs. Then there grew up the idea that all the other resources, timber, mineral, including coal, and all of those things, were about to be exhausted, as Governor Spry stated. It was insisted that these must all be conserved for future generations. This new theory developed an additional reason for the exercise of administrative authority in making withdrawals. Whole townships were withdrawn, areas of thousands and thousands of acres upon which nobody could settle or discover any valuable mineral, or do any-

thing else toward the development of the country or its resources, were withdrawn from entry.

So we found ourselves in a very unfortunate position. We found that we had these vast areas under our dominion and that we had to police them. One governor asked this morning if these government lands are an expense. They are a very material expense. Take, for instance, a county wherein a half or a third, sometimes two-thirds, of the area is included within withdrawn areas, not subject to entry, not subject to settlement or development. The expense of law administration over the entire area must be borne by the state. This is expensive, especially in a mountainous region, where settlers will get in, "squatters" so-called, and where the lawless will gather because of the wildness and expanse of the country. Those settlements must be policed and looked after, and considerable crime is committed in these out-of-the-way places. Think of the mileage that must necessarily be paid to sheriffs and to witnesses. The usual fees and mileage are doubled up many times because of these great tracts of withdrawn land. All of those things have entailed expense. And there is no possible opportunity to have that land become revenue bearing for the state, to have it pass into private ownership when it will be subject to taxation.

Now, of course, this was all prompted by good motives, no doubt. The idea that these resources would be conserved for those who would use them sanely and safely, may have been laudable. But they have overdone the thing. A good many of the eastern conservationists feel, when they hear of a man taking a piece of public land, that something is oozing out of their pockets, slipping away from their grasp. Now, I do not believe any man who would go out and look over the resources in these Western states, and familiarize himself with conditions there, would ever retain such an idea as that. But associations and societies have been formed and these have created and cultivated that idea. They have passed resolutions until they have scared politicians, and politicians, of course, as we know get into office very often, and sometimes into very important offices, and the result has been that we of the West have been unable to enjoy the development and growth in our part of the United States that we should have.

Now, I think, to some extent, the administrative features have been straightened out, but the great big question still remains as to how to dispose of the vast areas and how to dispose of the resources, such as the coal, the hydraulic power and the timber lands, in this country. I think the homestead end of it has, to some extent, been straightened out,—the swing of the pendulum has been adjusted. In one county in our state where conditions have been rectified the growth in the last two years has been considerably more than one hundred per cent. In Valley County, northeastern Montana, two years ago there were 3,600 voters. Since the election of two years ago a portion of Valley County was cut off and formed into Sheridan County and this latter county the other day cast 4,859 votes, and Valley County cast just as many as were cast two years ago. That simply shows what can be done by giving homes to the people who are looking for homes, looking for land, for the land hungry in this country. And those people are not speculators. They are not people who are trying to beg anything from the government. They are going on to these lands and they are complying with the law, and they are building homes; they are making improvements; they are getting livestock, gathering around them property the minute they get title to their land. They are very anxious to get title because every man likes to feel he owns a piece of land and that it is his,—he likes to take his patent to the recorder's office and have it recorded so he knows the title is vested in him. The minute he does that the land becomes subject to taxation and bears its just and adequate share of the expense of maintaining the government. In addition, the personal property that is accumulated by the farmer and homesteader bears its share. It all comes in. It makes for the wealth, it makes for the growth and development of the country.

I cite that simply because in that section of the state there are no other resources, such as coal. There is no timber, and there is no water power, and therefore they have relaxed on the homesteader and let him enter there.

But we still have this question of how to handle the public water powers and how to handle the timber, coal and other resources. Then we arrive at the problem Governor Spry discussed at some length,—the leasing problem. I realize that has been



a very serious proposition. The question is whether or not the Government shall retain the permanent ownership of water powers, of coal lands, and of other resources, and allow them to be leased out for long periods of time. We, of the West, think it is better even for a corporation to own this property thereby making it subject to taxation, than for it to be retained by the general government and never come within the revenue laws of the state. Conditions have changed. In the old times it was possible for a public utility corporation to raise prices and to squeeze out competitors by different methods, but that condition does not exist in this day and age of the world, because we find that all the public utilities of this country are regulated in the various states and in the nation, either by the Interstate Commerce Commission or by the state public utility commission. There is not the same desire, there is not the same necessity for competition in public utility service that existed in days gone by. Rates and service are now both regulated. I noticed an illustration of that in one of our cities during the past year. There was one electric light company there, and last spring another electric light company came in and said "We want a franchise, we want to put in another plant here and enter into competition." Immediately the old company simply said to the public: "You grant these people their franchise to come in here and you will be the loser. We have already made our showing to the Public Utility Commission and they have lowered our rates down to a basis that is as low as we can stand. By furnishing all the light and power to this municipality and to its people we can sell it cheaper to you than if there were two companies with two sets of officials, two masses of property and a division of the income." In other words, they said: "If you let this other company come in here and put in a new system, make a new investment and hire new people, and have two full sets of officials and two complete organizations here, the people of this community must pay for it. It will cut our business in two, our income on our investment won't be so great, and the result is: we will have to go before the Public Utility Commission and ask to raise the price we are charging. Our competitors will be forced to make their showing, and they are not going to do business for their health. They will have to ask for a higher

rate than we are getting now." The people began to think. It presented a new phase of the situation to them, and that was that competition under modern conditions does not always make for either better service or a cheaper commodity. They voted down the new franchise.

I think we need no longer live in fear of any set of men getting control of the vast resources of this country. Because we have that thing figured out, we have it systematized and modernized. It is not possible under our system of government to-day for any group of men to go in and grab up the natural resources of this country and monopolize them to the disadvantage of the general public.

Therefore, it seems to me that instead of having solved the problem in the manner in which the conservationists sought to solve it, we have solved it, unconsciously, from an entirely opposite position and solved it most effectually by public control of the various public utilities. These resources, nearly all of them, except timber, today, are utilities. The water power seems to be one thing about which the whole turmoil has been hinging, and I believe that under the construction of modern day public utility laws there is not the danger of getting those things cornered that there was in the old days. We have, some of us, assented to the leasing system, believing that it is better that we should have these public resources utilized in some manner than to have them forever stored up, or at least during our time, and some of our public men have yielded in that direction. I realize that Governor Ammons and some of the other gentlemen who take a very decided stand on that matter, believe that we should not yield and that we should not give at all on that proposition. Personally, I have never felt disposed to stand in the way of anything that would make for the development of the natural resources, but of course there is the danger that by yielding we might form a precedent that would be considered binding and ultimately result in the retention of ownership by the public of all of these public lands and these resources.

It is a big question. It is a question that means much to all of us. It means much to the people of this state of Wisconsin. They want to go West, some of them, where they can get cheaper lands, bigger farms, where they can grow up with the country,

and where they can have opportunities that perhaps are not found in the older communities. We are glad to get these people. The very best citizens we get are the people who come in from the other states of the United States. They know more about conditions than the foreigners, and they make the farms because they have the right ideas and the right instincts, and they are made up of the right kind of stuff, but they will only come and settle on these public lands when conditions are right. It has been the object and the aim of men like Governor Ammons and Governor Carey and Governor Spry to try and bring about a condition that will make the situation look inviting to the man who wants to go out and make a home on the public domain. I think if Governor Carey never does anything else in his life, or never had done anything else in his life, the very fact that he wrote and caused to be put upon the statute books of this country the Carey Land Act is a monument which will always stand to his memory. It has caused a great many whole communities to be built up and made prosperous, and it has furnished homes for hundreds of thousands of people in the West. His idea was not to make revenue for the general government, but to make it possible to develop the lands, the public lands, and to make homes, and thereby let the government profit indirectly rather than directly. Men like Governor Carey have seen these things because they have lived all these years in those places, and they have realized what can be done by reasonable and sane co-operation.

We have stayed out in the West and we have seen vast appropriations made on these river and harbor bills. We have seen how money has been frittered away, how it has been wasted, by the "pork barrel" process, as it has been called, and yet when we have asked for money to develop something that would be substantial and would make for the permanent development and wealth of the nation, we have received a negative answer.

Finally, when the reclamation laws were enacted, and it was decided that the proceeds from the sales of certain public lands in these states could be applied to the installation of irrigation systems, we still met with a good deal of opposition. The law provided that these settlers must pay back to the government of the United States dollar for dollar, every dollar that was spent

in making these improvements, so that the lands could be reclaimed to make homes for them. A law was passed providing that ten years time should be given in which to repay this money, in annual installments. It was found that a farmer, laboring under the conditions that existed, could not always do this, and within the past year, when it was attempted to extend that period to twenty years there was considerable opposition manifested, and it took a good deal of hard work, it took a good deal of shoving on the part of the western representatives to finally get Congress to a point where they would yield and allow us to have twenty years in which to pay back those moneys which were used for the reclamation of the land and the installation of those irrigating systems; whereas in the case of moneys appropriated for river and harbor projects in other parts of the United States, it is never even thought that there should be a repayment.

We do not ask for donations. We merely ask for loans, not from the public treasury, but from the funds which have come into the United States treasury from the sales of public lands in the various states. Fortunately we have gradually gotten those in authority to realize the importance of this matter. When the present administration took over the affairs of government, there was a considerable discussion as to the advisability of proceeding with certain of these reclamation projects. These projects had been outlined and planned and certain schemes had been set on foot, but they had not been carried into effect. We found it necessary to go to Washington, not only congressmen and senators, but those in private capacity, as well as governors, and other public officials, to make the biggest possible showing in order to hold for these various states the advantages which we had gained, and to insure the completion of the projects. I know that Governor Ammons and Governor Spry were there, and I know I made the trip with a number of public spirited citizens of our state. We insisted that the Government should proceed to the completion of these various projects. You see after the money had already been set apart by Congress for the specific purpose, we still had to make the fight all over again. This has been our experience and trouble.

I am glad there has been such a forceful presentation of the cause of the West by Governor Spry. I think if every man and

woman and every child, who is old enough to read, would read Governor Spry's address all would profit by the information gained. To my mind the facts are unanswerable. To my mind it is the strongest presentation of the case of the West ever made.

I would be glad to hear from any of the governors here who have encountered such conditions as we have encountered in our particular part of the northwest, or from any of the governors from the East who have not encountered those conditions, but have understood the conservation ideas that have prevailed in parts of this country.

GOVERNOR EBERHART—Mr. Chairman: I hope it will be understood that those who are not in close contact with these Western land questions are in sympathy with the movement to solve those questions along the line suggested. Minnesota is perhaps a typical Western state, and yet it has not these problems to contend with.

When I called the second National Conservation Congress in St. Paul some years ago, I had great difficulty in securing the consent of the older or radical conservationists to allow speakers on the program that represented the Western states. I had to go to Chicago and go East once or twice in order to satisfy the opposition that there should be a representation for the West on these great conservation problems. I wondered at the time why that was so, why there should be opposition to the development of the West. Most of the opposition is unjust. The railroad situation is somewhat similar. There was a time when our railroads were not as well managed as they are now. There was a time when in some places men took advantage of the railroad situation and issued a lot of watered stock and created a great deal of prejudice against the management of railroads. The pendulum swung the other way, and it swung too far, perhaps, and I think to-day there is a disposition to treat the railroads with less prejudice than in times past.

Now, if we look at this situation unselfishly, I think we find that to some extent we ourselves have been the cause of that kind of a feeling in the East. There are two reasons. In the early development of all our Western states there was a disposition to permit exploitation under the guise of development. Now, we all believe in the development of this great West, and I think it

is the disposition of the East and South to join with these Western governors and secure for them a release of a large amount of these agricultural lands that are held by the Federal Government.

I think there are one or two propositions we all can agree upon—at least I am satisfied that they are sound. One is that the state should undertake no business which can be transacted as well for all concerned by an individual or association of individuals. And likewise the Federal Government should undertake no business that can be transacted for all concerned as well by the state interested as it can be transacted by the Federal Government. But I cannot help but feel that in the various states we have been partly to blame ourselves.

With respect to public utilities there can be only one of two things. There must be either ownership or regulation. There is no other possible alternative. I think we have to admit, at least in the early stages of our states, that we were not in a position to regulate as we should have regulated. I think all the states represented here, and all of our states, are now in a position to manage these public utilities, largely because they have assumed state regulation as against local regulation. For several years I have had a contention with the friends of regulation in my state in regard to the regulation of public utilities. There are those in our large cities and in many of our small cities who favor local regulation. And there are those who have studied the question more closely and by experience find that state regulation is the more effective.

When all our states have established effective methods and machinery for the regulation of public utilities, there is no reason why the Federal Government should withhold public utilities from them. I can sympathize with those states one-third or two-thirds of whose land is owned and controlled by the Federal Government.

I think, if we have a little patience, and we are supposed to have some patience, the time will come when our friends in Congress will realize that this authority should be turned over to the various states, as far as possible.

It is an important question and it is difficult to deal with. There has been in the past a good deal of prejudice and we have

not been able to treat the question as we should have treated it, without prejudice. I think the consideration of it here by all the governors of the various states interested will have a tendency to bring about a solution in the near future.

As representing a Western state with very little public land within it, only about 500,000 acres yet to be had from our government, I can readily see that the claims of these western governors are right and just, and when they have proved to the satisfaction of the government that they themselves are in a position to manage and control these public utilities, the Federal Government has only one thing to do, and that is to turn them over to the states. So I hope there is not any disposition on the part of the western governors to think that the East or South or central West has been in any way unsympathetic in regard to these matters. Speaking for one of them only, I want to say I hope to see the time come soon when a large amount of these lands that are now withheld will be turned over for the purpose of settlement, and that the utilities therein, whenever the states have shown themselves competent to regulate them, will be turned over entirely to the various states for as effective regulation as is possible even under the Federal Government.

GOVERNOR CAREY—Mr. Chairman: We are very much interested in this question in the West, and I am very glad that the governor of Utah took so much time to prepare an address which must be of great benefit to the western country. He has gone into the facts and details, all of which can be proved by the records of the Land Office. The turn has been so sudden in the West, the whole change of policy, that it is doing an immense damage to the Western states. We claim in the West that we have been rather ideal in the management of our affairs. We have on our statute books liberal laws; we are liberal so far as education is concerned. While I cannot go as far as the governor of Utah, I can say that half of all the money raised in the state of Wyoming by taxation goes to the public schools alone. This is necessary because if there is a family with three or four children remote from a school house, it is customary and the policy of my state to furnish them a school teacher. We have more difficulty as a matter of fact, in finding a suitable house where the school teacher can live and live comfortably, than we do in the establishment of schools.

The conditions have become very peculiar. For instance, a few years ago every encouragement was offered for men to go out and settle on public lands, or go out and prospect in the mountains or valleys for minerals. Not so today. See what that encouragement did. Where the Leadville mine was discovered they hunted for gold and found silver, the geologists said an unnatural condition for silver, and they opened up those great mines and brought to the surface many tons of silver which has been an important factor in the development of this country. I often think of California in this connection. What would have been the progress of that state if the Government had immediately upon the discovery of gold, sent their geologists out there, and they are largely boys from the universities, to withdraw all lands from entry of any kind, on the theory that they were mineral lands rather than to have passed liberal laws for the purpose of disclosing a mine or a mineral under the ground. Minerals are of no benefit until utilized.

I can illustrate, and I want these Eastern governors to please listen to me. I can illustrate in a very simple way. There have been great discoveries of oil made in the state of Wyoming during the last three or four years. The oil has been known to exist there for the past forty years, since the very organization of the Territory, but no one seemed to discover the place from which the oil seeped. The geologist has his theories about it. But two or three years ago, or about four years ago, they made an important discovery of oil. Fortunately, the discovery was on section 36, one of the school sections. It was an important discovery. That one section of land has been paying the school funds from \$2,000 to \$3,000 a month from two or three wells.

Now, all around these wells the prospectors erected derricks, and they found about no oil at all outside of that particular section. As soon as they put up their derricks and commenced to drill wells to cost \$15,000 or \$16,000, the Government sent out its geologists and withdrew all lands because they may be oil lands. Now, they hold the land. They make no effort whatever to develop it. They say they want the world to develop these minerals, but they take possession of it, they tie it up and keep it from the prospector. The prospector has been a very important factor in the development of the mineral resources of



the West. Since the discovery of gold in California we know what influence he has had. We may say that the Territory of Montana, the Territory of Idaho and the Territory of Nevada,—all that country was really started by the energy, the industry, of the man who is known as a prospector. As a rule he made no money. He frittered away his opportunities. But the United States obtained the gold and the silver and the copper. Now, who got the benefit of it? The Government of the United States.

In my state there have been millions of acres of land withdrawn, and they have been withdrawn sometimes in the wrong place. A young geologist will go out and say: "These are coal lands" or "These are oil lands," and they are withdrawn. Somebody right opposite those lands discovers minerals, and they are not withdrawn. I will illustrate it in another way: A small town in my state has had the benefit of gas for fuel, lighting and heating purposes. The gas well has been running for a number of years. Recently they found out that it was becoming exhausted, the quantity was running out, and they could not find a place around that town where the Government of the United States would permit them to bore for gas. The Government would not sell them the land, but simply reserved it because it might be gas land. The citizens sent a delegation to Washington and the Government gave them a little limited space in which they could bore again for gas for the service of the town. They discovered an enormous amount of gas, but land all around the well is reserved. For what? The Government can never engage in these industries in the states.

The Government cannot do things economically. The great Panama canal has been dug across the peninsula. It has been done by the Government and done well, but there is a vast difference in the procedure followed by the Government and by a company or individual. The company or individual must go and raise the funds. The Government simply said: "We will cut that canal; it doesn't make any difference what it costs. We will furnish you, Mr. Goethals, the money as you need it; do not stop to consider the cost at all." He cut it, and did it well. It has been the same thing with reference to the Government attempting to cut these great irrigation canals and build dams across our Western streams. By the time they get through with it, the way

they do it, the lands become so expensive, so high priced, that the settlers cannot pay the price. It has been alluded to by the Governor of Montana. They started out to irrigate lands for about \$30 an acre. They were going to charge the farmer no interest and he should have ten years to pay for it. Well, you know ten years interest on a 6% basis amounts to as much as the principal. The land gradually went up because of the want of experience of the men who managed these projects, high priced engineers, all centering in the city of Washington, thousands of miles away from where the work was being done. The result has been that some of that land to-day will cost the settlers \$70 an acre.

I talked to a man a few days ago at a town called Powell, in one of the most beautifully irrigated districts I ever saw. The Government accomplished wonders there. I asked him what the land was going to cost. He has been there seven or eight years, probably not so long, five or six years. He said: "I don't know. That is the difficulty with reference to the whole thing; the Government doesn't tell me." "Well," I said, "now, they have used so much water, they have destroyed a lot of lowlands, and are engaged there with great ditching machines putting in a tile to drain it." To show you how much water they get on the land, they are in some instances running pipes 36 inches in diameter on the land. "Well," he said, "they said we will have to pay for the drainage, and it will probably cost \$10 an acre on our land." So it goes on in that way because the government is trying to do that which should be done by the people. They have gone ahead and reserved large bodies of land on the theory that some time or other we will have money enough in the reclamation fund to do this work ourselves. The Government at Washington is against the local government in the state. It is the most unfortunate thing today that has grown up in our country, this disposition to interfere with the development of the western states.

Much can be said on the subject of conservation. We know that seventy-five years ago in the northern portion of Wisconsin, Minnesota and Michigan, there were great areas of lumber, of timber—the finest timber found on this continent, white pine, the easiest worked by the mechanic, and with which you could

get the best results. Now, if there had been a system adopted in the start to remove the timber that was matured only, protect the young growing timber, etc., that timber would probably have lasted for all time and answered the demands of this section of the country. It is gone. Now, they did not commence with conservation when they had the opportunity and something to conserve.

Under the new conservation policy these federal officials come out in the West and withdraw great areas, great tracts of land, some suitable for men to live upon, some containing a few little straggling tracts of spruce trees or other small timber. They have withdrawn millions of acres from settlement. We deserve better treatment, and I have felt or thought that the East would rise up in its power and see that the right thing was done. The Eastern and Southern states were not treated as we are being treated. Take for instance the state of Louisiana. The federal government gave her lands without stint. It gave Louisiana the lands that were overflowed,—the swamp lands. They stinted us; limited us to the smallest areas. They gave the states out West 500,000 acres as all of the lands we were entitled to under the swamp act. There is no reason why the government should not be liberal with the West. The West will never properly progress until the policy of the federal government is more liberal than at present.

I repeat, there is no reason why the government of the United States should not be liberal with the West. I have sympathy with these people who are trying to get money for river and harbor improvements and money to protect great areas of country from the overflows of the Mississippi River. They should have it. The United States has absolute control over the navigable rivers and streams, absolute control over the great harbors. Money for these improvements should be appropriated and expended, but care should be taken that it is not wasted. We speak of the "pork barrel." The "pork barrel" procedure is the most outrageous procedure in the House of Representatives. I have watched it myself.

I think we do pretty well in the West. Mine is a young state with but 200,000 people and an area of about 100,000 square miles to be policed. We must support courts and schools. And

yet I want to say that we have an indebtedness of only \$108,000. We never have defaulted on a school, municipal, state or city bond. We pay the principal and interest at maturity. This we have done of course by taxation; our people have come forward willingly and paid the tax.

This nation can afford to be liberal with the Rocky Mountain states. We work out there under adverse circumstances. It can afford to be and should be just as liberal to us with its public lands and resources as it was with the states of the Mississippi River Valley where conditions for building up were more favorable.

The farmers have a hard time of it. Conditions conspire to keep from the farmer his reasonable share of the value of his product. This is so in both East and West. Our farmers find it about impossible to pay for their land under the reclamation service inaugurated by the United States. The United States says: "We are liberal, we now propose to let these people pay for their lands without interest in twenty years." There are none of them making any payments, because they can't. Our farmer has to build his house out of logs or sod. Think of the struggles he goes through, especially a man who previously has had a comfortable home in the East. Every encouragement should be offered. Why? Because the productive force of every man we get out in that country will average from \$600 to \$1,000 a year, even if he does not make a very good showing. What this country wants, of course, is opportunities for men, opportunities for women. What this country wants to do is to help the men, the women and the children, and not place burdens upon them. Now, the governors out in these states will tell you it costs a man from \$50 to \$75 to locate a piece of land. He must find somebody out there who knows the boundary lines. He does not know them. Everything is against him. It is not like getting started in Nebraska or Iowa. The East has forgotten the condition it was once in. They have forgotten their pioneers who experienced the very struggles these people are going through in the Western country today and they always forget how well those people in that Western country can do in the face of adverse conditions. You can afford to give them all the land, the water power, the oil, and the coal.

I want to say something else, just to make the point strong. I have been in that country since I was a boy. Years ago any number of firms went into the coal mining business, when there were no restrictions, when they could buy coal lands for \$5 an acre ten miles or over from a railroad and for \$10 an acre within ten miles of a railroad. I have only known one firm since I went out there that has had even ordinary success in the mining of coal, but the geological survey says there is more coal in Wyoming than in any other state in the Union. It is everywhere. Yet the restrictions are such today that even the settler does not have the right to go and dig coal out of a bank for his own fireside.

And the chief cause of it all is the Bureau method of administration that is being built up in the city of Washington. They have become unreasonable. It is a strange thing, just as soon as a man goes to Washington and becomes a representative or senator, he begins to think he is a part and parcel of all the affairs of this country. If they would only confine themselves to dealing with the army and navy, with these question of rivers and harbors, with our relations with foreign nations, and the simple and proper administration of the land laws, the West would take care of itself and progress. There is built up in the city of Washington, I say, these bureaus where men stay for a lifetime, where they theorize and say what is the best for the interests of the Western country, and "We must protect what is best for the interests of the general government." People living in the West will protect better than men who live in Washington. Follow the same theory that was adopted clear back in Jackson's time, of parceling the lands out among the people, giving the greatest number possible a small piece of land if they are willing to go out and settle upon it, and you will work out this problem in the West. Just as long as the present plan is followed the progress of the West will be retarded. I believe the people of the United States will see and know and that they will afford us the relief that is demanded in the Western country.

GOVERNOR AMMONS—Mr. President and Gentlemen: There are a few points I wish to make in connection with the addresses that have been delivered on this subject.

The vital thing in this whole matter is its effect upon the Western states, and the thing that hurts many of us most is the

attitude assumed by the Federal bureaus operating out in the West. And in saying that I am not criticizing the individuals who are there, but the policy and the heads of the departments who are at the National capital. I want to illustrate to you: President Roosevelt, several years ago, directed that a right of way be turned over to the Moffat Road in Grand County, Colorado. This right of way was along water grade, down where the reclamation service wanted to build a reservoir. These directions were made after full hearings, but to this day the bureau under that president, and those under the two succeeding presidents, have disobeyed the order of the chief executive of this country; the land is still withheld. Now, you think that a pretty extreme statement. All you have to do is consult the records; you will find it is true.

I want to present another illustration of the attitude of these officials toward the Western states. Governor Carey made the point that these officials in the West are antagonistic to our state governments. Governor Carey is right. Almost every one of these officials, at least until recently, has been a traveling missionary, preaching to the people of the country that the state governments were always wrong, and, further, that if the people want to build or accomplish something, they must get it through the Federal Government. These men have been traveling missionaries working against the interests of the states in which they were located, when their very liberties and lives were protected by the laws of the states in which they were located and against which they were preaching at the time.

The Agricultural College of Colorado wanted to establish a forestry school. That college is located at the foot of a mountain. It has a lot of trees that grow on the prairie under irrigation, but, being close to the mountains, and it being precipitous there, it was thought by the Board of Agriculture it would be a nice thing to get some land reaching up to timber line for experimental purposes. Now, the state has approximately 200,000 acres of timber land within its own border, while the Federal Government has reserved for forest reserve purposes in Colorado fourteen million and a half acres. The state had no land of its own close to the Agricultural College. One of the members of the board made a trip to Washington and spent two or three

weeks there to see if we could not get out of that vast area of fourteen million and a half acres, a few acres for experimental purposes—a few acres upon which to teach forestry. They would not give us what we wanted. They finally agreed to sell us 1,600 acres at \$1.25 an acre,—make us pay \$1.25 an acre for it. Now, wasn't that a fine spirit for a great, rich government towards a struggling state out there that had in view the laudable purpose of teaching its people how to practice forestry in a state where it was needed?

I will give you another illustration, and I could give you hundreds; could give you an almost unlimited number. Some time ago a Swiss who had come to this country wanted to become a citizen; he wanted to take up a homestead. The homestead he desired was a little way from a stream. The stream near this land runs through a deep canyon. When the man went to file on this land they would not accept the filing because they said it was withdrawn for power site purposes. And so a lot of people wanting to assist the man to get a home, and knowing the situation, started in to help him. We have been at work for three years. That location could no more affect any reservoir or power site than this building here affects it, and yet only a week or two ago I had the last letter from George Otis Smith of the Geological Survey, turning us down, but saying that he would give us a chance for further hearings.

I could give just one illustration after another of that sort of thing, but let me tell you, gentlemen, independently of this question of any rights the state may have, independently of anything else, it is just as impossible to properly control our local affairs from the city of Washington as it would be for your officials here to determine what is good for Wyoming or Colorado or New Mexico or Utah, and you must realize it.

I said that this thing affects the very sovereignty of the states. Those who have read the debates and the proceedings had when the organization of this Government was being considered know this to be a fact: The thing that held back the organization of the Union more than any other one thing was the insistence that these states must be equal; that they must be admitted on a footing of equality and that they must be sovereign except so far as power was delegated to the Federal Government. One state

had a lot of land and the others had none. One state was weaker than the other, and it seemed to be the rock upon which this government was going to split. How was it fixed? By turning all this land claimed by the different states over to the general government so as to put all these states on an equal footing. And not only that, but they went further and stated what should be done with the land. They said it should be "disposed" of. A mere renting of land does not "dispose" of it. They went farther and said why it should be disposed of. It should be disposed of to create new states. What for? That they might be admitted into this Union on an equal footing in all respects whatever with the original states. This compact or agreement has been carried out in the case of your states in the east, north, south and central portions of the United States. Is it right that we should be treated differently? Because it has the force and power our nation now says to the hearty pioneers who went into that Western desert and started the foundation for great states: "We will put the vast portion of your territory upon a leasehold basis and collect the revenues for our support instead of building your states." Tell me, gentlemen, is that fair?

Now, let us take my state, for instance. We have in Colorado three hundred and seventy-one billion tons of coal, according to the estimates of the United States Geological Survey; enough coal to supply the entire world at the present rate of consumption for more than three hundred years. Governor Carey's state has much more coal than Colorado has, enough for another three hundred or four hundred years. And yet the father of this whole conservation movement—the man who has put this great wet blanket upon the settlement and development of the West, advertised in all the magazines throughout the country, less than half a dozen years ago, that the coal supply would be exhausted in fifty or a hundred years. Now, we know better. I find by reference to the reports of the United States Geological Survey that since we commenced to use coal and up to 1909, we have consumed 6/10 of one per cent of the known supply. The people have been scared to death by these unfounded warnings. These same fellows are now compelled to admit that we are growing timber on the American continent faster than we are using it, and that we are continually discontinuing the use of timber and



substituting other and more lasting and cheaper materials for building.

Let me tell you, gentlemen, there never was a system put on the American people so vicious as this under the new conservation policy. We have, according to the figures given us by Federal authorities, 2,117,000,000 horsepower possible development out there. We developed four and one-half per cent of this before this movement came along. We want to use those streams in two ways: Up in the mountains we can store them, equalize the flow, generate the power, and send it out on to the plains and pump the water to the surface and irrigate the land so that we may use the surrounding pasture to produce meat, something everybody knows we need in this country. But we cannot do it. We cannot get a right of way. We have applied and have been refused. We cannot get them for irrigation purposes in some places merely, it seems, because they have notions of their own. And we have gone to them and we have said: "We do not believe you have the legal right to refuse." They say: "That makes no difference, we won't do it." I made a trip to Washington and asked that we might take the question into court and find out whether or not we have a right to construct these reservoirs on public land,—but they refused even this. We haven't even the right, gentlemen, to go into the courts of this land and determine whether or not the law gives us the right to use these reservoirs for power service. We have been knocking at the doors of Congress, asking that we be given the right to go into court and challenge the rules, orders or holdings of these bureaus when we think they deny to us our legal rights. We want the right to defend our rights, but we cannot get it. Think of that, on free American soil, if you will.

Let me tell of a recent experience. We brought a mandamus proceeding against a Federal land officer to compel him to do just exactly what the statute said he should do. We failed, however, because the court would not take jurisdiction, and a man who now sits on the Supreme bench, I believe, sat with the district judge at the time that decision was handed down. See what that means to us out there. We do not demand these things for improper purposes.

We have a valley down there, the San Louis Valley, where they have stopped the location of these reservoir sites, where they are preventing the creation of reservoirs on the upper stretch of the river because they want to build a dam down stream three hundred and fifty miles below our state line. Now, if they would allow us to build these dams and create these reservoirs, we could equalize the flow, and get the power and use the water for irrigation without destroying or even injuring the river. We could use the water and let it run on down. If the flow were equalized, they would not need to build a ten million dollar dam below that will fill up with mud in ten years, as any engineer who has ever looked it over will tell you. Yet they won't allow us to use the water at the upper end of the stream.

Let me tell you something, gentlemen. The wisest laws we have out in the west are founded upon experience. When our old time prospectors went out into the Rocky Mountains and began to look for gold and silver there were no civil courts, no organized local government out there, and so they got together and adopted a temporary government. They provided that a man could take so much land for a gold mine or a silver mine—gold then was the main thing—and they adopted rules by which he should hold the tract. Similar rules were adopted for the division of water; they had to use water in the mining of gold. Thus they adopted their riparian system and they took the commonsense view; they adopted these ordinary rules for the conduct of their business there. And then when congress came along later they found those were so wise they put them into the statute books and they have been there ever since.

Now, why shouldn't Congress do the same thing with respect to irrigation?

Let me tell you another thing on this irrigation proposition. On the South Platte River we began our development of irrigation right at the upper head of the valley, about 225 miles up stream from the Colorado state line. We began up at the head of the valley. I can recollect forty-three years ago or more when they were quarreling more about water than to-day, and they were only irrigating a little piece of land along the stream. In those days the river came down in a great torrent in the spring, but late in the summer there was not much water. They began to

dig the ditches out from the stream, and as they irrigated the water would gradually percolate into the ground and gradually work back into the stream. They would carry out the water from the flood in the spring and store it in reservoirs somewhere. Part of the water went down into the ground, but after awhile that would return and be taken up again. And so while there was only just a few thousand acres there in irrigation, they were using all the water they could get and could not touch anything down toward the state line. Today they are irrigating successfully, much better than they were then, one million five hundred thousand acres in that valley. The time will come when we can irrigate two or three times as much land as at present. We have learned this from experience, and why should the Federal Government, not knowing this as we do, not having expended the money we have (it has not put a penny in that country up there), why should it come out there and interfere. We have found out from experience and the hard knocks of the pioneer what can be done. Why should the Government interfere not only to the disadvantage and destruction of ourselves, but to the great disadvantage of the whole country? When I was a boy you could go down near where the South Platte crosses the state line and if you camped there you would find in most seasons of the year, especially in the dry places, that you would have to dig a well to get water. That is not the case now. The flow has been equalized. The floods are not so severe and there is a better flow of water in the dry season. Isn't it of interest to the other states down stream where the floods in the spring break the levees and destroy property, that this system of ours up there in the Rocky Mountains of holding back the flood in flood time and turning the water loose when needed, be followed? Isn't that a better system than taking the water from the head of the Rio Grande and carrying it three hundred and fifty miles down before it can be used the first time? Those of you who have ever been out in that country know that the system which brings the greatest good to all is to use the water the first time up near its source, so that it can be used over and over and over again, for irrigation.

Let us consider the matter from another angle. Our power possibilities there depend upon regulating the flow of the streams so that it shall be uniform as near as possible during the year.

This can be done only by reservoirs. Suppose, my friends, you go down—take our state line as a base—and create your first storage reservoir there. Or, do worse than that, go down to the last place where water can be used because of the fall of the country, and make your storage right there. What have you done? You have indeed created a monopoly, because whoever creates the reservoir has control of all the power possibility above on the river. It is as plain as daylight. Whereas, if you store at the upper end of the stream you equalize the flow and make it possible to use the water over and over again, as long as there is any power in the river. And let me tell you, if you will permit us in that western country to control this situation along lines we have found to be wise, with our public utility commissions controlling prices, we will get the best and greatest use out of these streams, instead of the least. We know better than any man living in Chicago, New York or in Washington, D. C., what is good and necessary for our states. We have studied this a lifetime. We have made these developments, and we know how best to make them. Isn't it best that we should have control of these matters?

It is necessary to the upbuildings of the West that the Government allow the public lands and resources to go into the hands of the people. We have in Colorado more than eleven million acres of coal lands. In spite of all the reports in the papers and otherwise, less than three per cent of all Colorado coal lands are in private ownership—less than three per cent. We have belonging to the state funds 472,000 acres of school land, the trust fund for our schools and our institutions, and we have not sold any of that. We are holding this school fund trying to build a great permanent fund out of it. We are developing the land around it, trying to make all more valuable. We have leased about 2.8% of the school land, and of that only 1¼% is productive today. The papers of this country have talked about John D. Rockefeller owning all the coal lands in Colorado, gentlemen, I want to tell you how much truth there is in these reports. That great company, the largest one doing business in that state, has but 800 acres of that 472,000 acres of coal lands in Colorado under lease.

Those are the records, and these wild-eyed gentlemen who have come out there to write for the magazines have been shown these facts. I took particular pains to get hold of everyone of them and saw that they went to the land office and found out the facts, but they would not publish them. And when I tell you this I also tell you that the supposition upon which all of this ultra-conservation is based has about as much truth in it as that story about John D. Rockefeller owning all the coal lands in Colorado, or controlling them.

I want to speak further of one matter that was referred to here today. What expense are these government lands to the states? I want to illustrate as I have in a good many instances when discussing this question. Suppose that table (referring to a table in the senate chamber) represented a county. Suppose half of it was coal lands and the other half agricultural and other lands. The one-half has been deeded to private owners under the law and the other half is owned by the United States and leased to miners. The county government extends over both halves of the county. If one end of the county pays no taxes the other end must pay all. We cannot get away from that. Not only that, but the one-half must have coal with which to create power, perhaps conduct some little manufacturing business. Where is it going to get that coal? It goes over on the Government half of the county, on the Government land, and buys the coal. It pays the royalty that must be paid by the miner to the United States, and it pays the taxes to support county government over the entire county. This is worse than double taxation. Is it right?

What about the value of these resources they are talking about so much? They are not as valuable as they say. There is no coal in Colorado worth more than 10 cents a ton in the ground, and it is worth that only when it is right at the face of the mine, and has favorable transportation and market facilities. As you get away from these facilities, it becomes less valuable, it is worth only a small fraction of a cent a ton in some sections. Why? Because it will not be needed for hundreds of years. What has given it any value? This coal was there for untold centuries. Even the gold in the mountains was there for untold centuries, and the water came down the hills for untold cen-

turies. There was no value to them until the white man came there, the prospector and the old pioneer, and they built up a civilization, put government there, and people there to use these things. If that gold had never been discovered it would be worth nothing to the commerce of the country, worth nothing to Madison or to Wisconsin, nothing to Maine, nothing to New York, nothing to anyone. It is because our people went out and sought it and dug it out that it became valuable. Did they get rich? Why, my friends, I can count all the men on my fingers that got rich out of it, all of them.

. And here is something else: You hear them talk about sending experts out there to classify these lands and tell us how to do these things. I defy you to point out an expert who ever found a gold mine. The expert never found one in our state. It was the lucky prospector that went out with a grubstake and his savings of a lifetime who found them. And just a few of them—I know probably four or five or six, but that is all—ever got anything out of it themselves. It takes money to run these mines. A billion and a quarter of gold has been taken out of the mines of Colorado, and I dare say that as much or more has been spent in prospecting and mining gold.

And the same thing is absolutely true as far as our agricultural lands are concerned. I know land in the Platte Valley worth \$150 an acre to-day, but, my friends, you get a book account of that land from the time it was taken up and I will guarantee you cannot find, in a month's travel, a place where it does not represent that much money in work and cash. They are valuable to-day because they are producing the bread and the meat that is necessary for the population of the country. But we have created that value, we have created it by our toil, we are entitled to it, and you have no right to take it away from us or go out there and tax that land or the land adjoining it. And you cannot defend such a procedure in any part of the world, because all that government land lying there, coal land, pasture land,—all the value contained in all that land, we have put there by the improvement of the land we have taken and developed, by showing its value and by putting the population there to make a market for its products.

Now, let us take another phase of the situation. I own a piece of pasture land. Uncle Sam owns one right alongside and he proposes to lease it to you. You come to me and ask my terms—you want to compare figures. I would say: "Well, I would like to lease you that piece of ground. I have so much taxes to pay on it. I have to keep up the fences and have these certain improvements. I cannot lease for less than 15 cents an acre." He says: "I can go over here and lease Uncle Sam's land for two cents an acre," maybe he will say for half a cent an acre. I say: "But I have to pay taxes on mine and you will have to fence that." He says: "No, I won't have to fence it, and if your old cow breaks through your fence and gets in there I will send you down to Leavenworth, Kansas penitentiary for a year. I don't have to fence it. I pay no taxes. You pay the taxes to support this county; not I." Is that fair, gentlemen?

Now, we do not care how much you do to prevent monopoly when you turn these lands over. If you want to put a limit on ownership or control, do it, and we will meet you on that ground. If you can discover anything that will prevent monopolies there, do it, and we will meet you half way. Our lands in Colorado have not fallen into the hands of a few. There were a few original land grants we found there. They have been broken up. One of them has been divided into a thousand farms. If you look into statistics you will find our farms in the last decade have decreased over half in size in Colorado. There are no people who are getting the land by any questionable means. There may possibly be isolated cases. But let me tell you, every single acre of land that has been fraudulently deeded in the state of Colorado has been under Federal law and not under the state law. The only thing our states want is just exactly what the old contract gives us. Just the same rights as your state has. We are all the same people. Why, when I came here I brought letters to brothers and sisters and cousins from good citizens of Colorado. One of our former governors was educated in this institution of yours here, and was raised on a farm only twelve or fourteen miles away. We are your brothers and cousins. My ancestors were the first of the white settlers that went into one of the original eastern states. When I go out and help build a new state I am just as ambitious for that as you are for yours.

I do not come here to tell you how to run your government, and I insist I know as much about my territory out there as you do about yours. I tell you it is hard to establish homes and industries in that Western country, but there is room for ambitious people, and we want to get them. We want the hardy pioneers. We want all people to come and help us build up that state. We want men like Governor Carey, who has been there since he was a boy, and has been truly a greater state builder than any man I have known in the West. We want your university boys and thrifty farmers in the Western country, and, after we get them out there, we want them to have the same chances your ancestors had in building this country, and do not ask for anything more. Isn't that fair? We must appeal every chance we get. We are unable to do anything with Congress.

There are millionaires in the East contributing money for these campaigns against us, the most unjust ever conducted in this country; and do you know, right at the time when we had an interstate difficulty, an industrial dispute out there that commenced beyond the borders of my state, beyond my jurisdiction, financed from beyond my jurisdiction, and at this time when it looked as though we were going to be rocked to the very foundation of our state government, there was one bureau at Washington writing letters out to Western people telling them if the Western Governors' platform was to stand they would withdraw help promised to the West. They threatened to withhold money that had been set aside and had been promised for the building of internal improvements in the West.

Now, gentlemen, I will say to you in conclusion, and I am earnest in this, earnest, as a citizen of the United States and of a state which I hope will soon be one of our great states, all we ask is that we shall have what is coming to us, what is due us—that is all. We are appealing to you who represent the great population of the East, not for anything but just mere justice, just what belongs to us, and that is all. We ask for your influence, we ask you to help us, we ask you to point out to us anything you find wrong in any way and we will correct it. There is no people in the world with a higher sense of justice than the people out in the West. They are just as enthusiastic for the Stars and Stripes as any people in this great nation of



ours, and all we ask is that we shall have that fair play which the principles of our government guarantee to us, and I hope and I pray you will assist us in getting this.

GOVERNOR CAREY—I move that we adjourn until ten o'clock to-morrow morning.

FORMER GOVERNOR FORT—I would ask the Governor in the chair to appoint a committee of two to audit the treasurer's accounts. They can report to the executive committee to-night.

GOVERNOR AMMONS—Second the motion.

GOVERNOR HALL—Is there any objection to the motion? I hear none. I appoint a committee of Governors Carey and Stewart.

If there is no objection the Conference will stand adjourned until ten o'clock to-morrow morning.

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## EXECUTIVE SESSION

WEDNESDAY EVENING, NOVEMBER 11, 1914.

The Conference met in Executive Session at the Park Hotel at 7:30 P. M., Governor Hall in the chair.

Upon invitation of Governor Walsh, Boston, Massachusetts, was selected as the next place of meeting.

It was decided that the next meeting should be held some time between July 1 and September 15, 1915, but the exact date of meeting was left to be fixed by the Executive Committee.

On motion made and seconded Governors Walsh of Massachusetts, Spry of Utah, and Hall of Louisiana were chosen the members of the Executive Committee for the ensuing year.

The committee appointed to audit the Treasurer's accounts reported that the accounts had been audited and found correct.

The Treasurer's report as approved is as follows:

MADISON, WISCONSIN, November 10, 1914.

JOHN FRANKLIN FORT, Treasurer,

## IN ACCOUNT WITH THE GOVERNORS' CONFERENCE.

## RECEIPTS.

1913.

Aug. 27. Balance in the hands of the Treasurer, as per report  
of August 26th, 1913, to the Governors' Conference  
at Colorado Springs----- \$1,598 95  
Since received from M. C. Riley, Secretary, the fol-  
lowing assessments from States:

1913.

Oct. 4.	Connecticut -----	\$150 00
"	Delaware -----	150 00
"	Georgia -----	150 00
"	Illinois -----	150 00
"	Maine -----	150 00
"	Massachusetts -----	150 00
"	Minnesota -----	150 00
"	Montana -----	150 00
"	New Mexico -----	150 00
"	New Hampshire -----	150 00
"	Texas -----	150 00
"	West Virginia -----	150 00
"	Wyoming -----	150 00
Oct. 13.	South Dakota -----	150 00
"	Nevada -----	150 00
Dec. 8.	Wisconsin -----	150 00
"	Utah -----	150 00
Dec. 17.	Ohio -----	150 00
"	Vermont -----	150 00
Dec. 24.	Oklahoma -----	150 00
1914.		
Feb. 6.	Virginia -----	150 00
Mar. 7.	Colorado -----	150 00
		<hr/> 3,300 00

Total receipts-----		\$4,898 95
Nov. 2.	Interest credited on the account by the bank on average balance during year-----	40 09
		<hr/> \$4,939 04

## DISBURSEMENTS.

1913.

Sept. 23.	Check to Cantwell Printing Company for printing 800 proceedings of 1912 and 500 programs (voucher No. 1)-----	\$812 00
Oct. 7.	Check to M. C. Riley, Secretary, for postage, express, telegrams and expenses to Colorado Springs Conference (voucher No. 2)-----	159 65
Dec. 22.	Check to M. C. Riley, Secretary, for salary from January 1st to December 31st, 1913 (voucher No. 3)	1,500 00

1914.

Feb. 20.	Check to M. C. Riley, Secretary, for postage and express (voucher No. 4)-----	58 79
Feb. 20.	Check to Cantwell Printing Company for printing 800 copies of proceedings of 1913 and 100 pages extra at 10c per copy (voucher No. 5)-----	880 00
May 15.	Check to M. C. Riley, Secretary, for salary as Secretary, from January 1st to June 1st, 1914 (voucher No. 6)-----	625 00
May 19.	Check to M. C. Riley, Secretary, for postage and telegrams, per bill approved by Executive Committee (voucher No. 7)-----	36 24
July 29.	Check to M. C. Riley, Secretary, for salary for the months of June and July, 1914 (voucher No. 8)---	250 00
July 29.	Check to M. C. Riley, Secretary, for letterheads, programs, envelopes, telegrams, postage, etc.-----	60 71
Total disbursements-----		\$4,382 39

## SUMMARY.

Total receipts -----	\$4,939 04
Total disbursements -----	4,382 39
Balance in hands of Treasurer-----	\$556 65

Respectfully submitted,

JOHN FRANKLIN FORT, *Treasurer.*

Dated November 2, 1914.

Examined and found correct.

JOSEPH M. CAREY,  
S. V. STEWART,  
*Committee.*

Honorable John Franklin Fort was unanimously re-elected treasurer.

Miles C. Riley was unanimously re-elected secretary at a salary of \$1,500 per annum.

A motion to assess each state \$150 to defray expenses for the current year was unanimously adopted.

The matter of an annual appropriation in each state to cover prorated shares of Governors' Conference expenses was discussed. The Secretary was directed to write the different governors respectfully requesting and urging them to recommend such an appropriation to their legislatures.

There being no further business before the Executive Session the same was dissolved.

## THIRD DAY

THURSDAY, NOVEMBER 12, 1914.

GOVERNOR MCGOVERN—The Conference will please come to order.

The Executive committee has asked Governor Byrne to preside this morning.

GOVERNOR F. M. BYRNE (of South Dakota) took the chair.

GOVERNOR MCGOVERN—Mr. Chairman, the first thing on the program this morning is the paper by Governor Miller on the subject of "Uniformity of Laws Fixing the Conditions to Be Met by Foreign Corporations Before Doing Business in a State." Governor Miller is not here. He has, however, sent his manuscript to be read.

Governor Dunne is here and is ready to read the paper that is set down for tomorrow morning, and, at the suggestion of some of the members of the Conference, I move that we ask Governor Dunne to read his paper now.

GOVERNOR AMMONS—I second the motion.

GOVERNOR BYRNE—Moved by the Governor of Wisconsin that Governor Dunne be asked to read his paper at this session on "Uniformity of Safety and Sanitation Laws for Places of Employment, Including Administrative Machinery." Those who favor that motion will say aye; opposed no. The "ayes" have it. Governor Dunne will you read your paper at this time?

GOVERNOR DUNNE—Gentlemen of the Conference: The question of the uniformity of legislation among the different states of the United States has been exciting a good deal of interest throughout the different states in recent years. Most of the states have already appointed commissioners who have met in conference for several years, in relation to matters of uniformity in the different states, and I believe they have been quite successful, particularly in securing uniformity of laws relating to negotiable paper, in a great many of the states. Quite an agitation also has been had in favor of bringing about uniformity of legislation in relation to divorce and I believe that consider-

able headway has been made in this connection. In recent years, particularly in our state and other manufacturing states, there has been a very pronounced agitation in favor of uniformity of laws in relation to legislation which would affect and control, in a measure, the relations between labor and capital. Some states calling themselves progressive passed laws in the interest of human life and human limb, in the interest of the comfort and welfare of the proletariat, and other states engaged in manufacturing have failed to pass such laws. As a result, it has been claimed in some quarters that some states that desire to be progressive and interest themselves acutely in the interest and welfare of the working classes are being discriminated against by manufacturers. In other words, manufacturers go to the state where the laws are not quite so stringent, and in view of that acute interest in the subject I have been requested to prepare a paper upon the uniformity of laws relating to safety, sanitation and places of employment, including administrative machinery.

## **UNIFORMITY OF SAFETY AND SANITATION LAWS FOR PLACES OF EMPLOYMENT, INCLUDING AD- MINISTRATIVE MACHINERY**

GOVERNOR EDWARD F. DUNNE OF ILLINOIS.

In the early history of the legislation of the United States, but little attention was paid to industrial sanitation and the prevention of industrial accidents.

The strong individualism and self-reliance of the pioneers who opened up and developed the country regarded such matters as being wholly within the province of each individual employer and his employees.

The law-making bodies for years placed no legal restrictions upon the relations of employer and employee. They considered such subjects to be matters for private consideration and action. They believed them to be affairs to be covered by contract and environment which should be free from state control.

Conservation of public resources, and the conservation of life and health in industrial centers were alike neglected and ignored.

Our forests were recklessly destroyed for immediate gain, without care of the future. Our mines were crudely and wastefully exploited. Our soils were recklessly impoverished, and their fertility woefully weakened. Our waterways were neglected or destroyed for immediate necessities, and the life and health of the proletariat was a matter of but little public concern.

In recent years, however, there has been a great social awakening. Conservation is the order of the day, and the cry of the political economist. Mines, forests, and waterways are being withheld from private exploitation, and reserved for future public development or development by private interests under public control. So also is the trend of the day towards the conservation of human life, human limb, and human health.

The statutes of most of the progressive states are replete with modern legislation having for its object the conservation of the health, morals, and well-being of the men and women who form the working units of the industrial world.

It was high time that there should have been such an awakening. Within the knowledge of most of us here present, there was a time when a brakeman working upon a railroad with an un-mutilated hand was a rarity; while all such mutilations were easily preventable by the adoption of safety brakes.

In the decade from 1900 to 1910, the total premiums paid to casualty companies insuring against accidents was \$181,276,782, and during that period the total number of persons insured who were injured was 1,558,551. During that same period most of the losses entailed by this frightful destruction of life and limb fell not upon the industries in which these injuries occurred, nor upon the employers, but upon the helpless employees or their widows and orphans.

At length the public's conscience was shocked both at the appalling roster of these casualties, and over the fact that the losses entailed thereby fell upon the weak and helpless, and the whole community, including even the employers, arrived at the conclusion that it is better logic to provide safeguards in factories, in workshops, and on the railroads, than to wait until an accident happens, and then give the employee the choice of a lawsuit or the benefit of the recently enacted, so-called compensation laws.

Legislation creating factory inspection commissions, and legislation compelling the adoption of safety devices and sanitation appliances, have recently been adopted by most of the progressive states. Such laws have been enacted in the state of Illinois.

Since the enactment of such laws, the Department of Factory Inspection in that state has compelled over 18,000 dangerous machinery parts to be provided with safeguards. It has enforced the construction of over 6,000 fire escapes and exits; and 7,000 devices on elevators insuring their safety; enforced the guarding of over 43,000 belts and pulleys; over 30,000 gears, and 1,800 emery wheels; compelled the removal of over 18,000 set screws; issued nearly 13,000 orders covering sanitation and ventilation, and eliminated or compelled changes in over 137,000 possible sources of danger from machinery.

It has compelled the safeguarding of machinery during the last three years, which has cost the employers four millions of dollars, and has taken steps, which during the coming year, with the approval of the directors of several Illinois companies, will cost even a greater amount than four millions of dollars.

Not only has that state made such stringent and expensive changes in the interests of the safety of life and limb, but it has enforced many sanitation laws of inestimable value to the working men and women of the state. Twenty-five out of the forty-eight states of the Union have enacted more or less progressive laws relating to the safety and sanitation of working men and women. All such legislation has been enforced upon the statute books by reason of the fact that 50,000 people were being killed annually in industrial enterprises in the United States, and over 1,000,000 more were receiving non-fatal injuries.

Time was when the employer, because of expense and the trouble entailed upon him by the changes of equipment, opposed the passage of such laws, but in recent years he has harkened to the demands of humanity and modern progress, and now many of these laws are placed upon the statute books after consultation with and the approval of, the employing element of our citizenship.

The only objection to the passage of such humane and sanitary laws that now comes from the employer, is the objection that such laws are not uniform in their application to all employers



in the same line of business. In making this objection, the employer points out, with some truth, that he has competitors in the same line of business in different states; that some of these states claiming to be progressive, are passing and rigidly enforcing laws for the safety of human life and limb, and for the sanitation, hygiene, and well-being of the working men and working women, which entail great expense upon the employers in his state, while other states within whose borders there exists the same line of industry, are free from the burden so enforced upon him and thus are able to run their business more cheaply and more profitably and underbid him in placing their products upon the open market.

Such an employer points out that frequently the large industries are driven from one state whose laws are onerous upon, and expensive to the employer, to another state where such restrictions are not enacted or enforced, and where the business can be carried on more economically and more profitably. A progressive state enacting humane laws for the conservation of human life and limb, and for the preservation of the health, morals and well-being of its laboring citizens, is thus placed at a great disadvantage as compared with a non-progressive state, which by its failure to enact such law invites the manufacturer whose only aim is financial profit within its borders, and thus enhances the manufacturing development in such non-progressive state.

Such cases are not rare. I have in mind one reported to me by the chief factory inspector of our state. This concern had four factories in different parts of the state, but found it difficult to comply with certain restrictions, which the child labor and machinery laws placed upon it. After demands by the chief state factory inspector of the State of Illinois were made upon that concern to comply with these restrictions, the president of the corporation decided that in order to place his corporation and its products under the same advantages as his competitors in the same line of business he would move his plants out of the State of Illinois into an adjoining state where the factory laws were less stringent.

Many manufacturers before instituting an establishment or developing an existing establishment look carefully into the

laws of the different states before setting up an establishment or further developing it, and if they find the laws of one state onerous and exacting and entailing an expenditure of money to comply with such laws, locate by preference in the states where such laws are not so onerous. The old position of the manufacturer and the employer was the demand "to be let alone." In recent years, however, he has changed that position largely as the result of the tremendous changes which have taken place in modern business and in modern public opinion. He has come to realize and accept graciously the fact that the day of absolute "*laissez faire*" is past. He is now willing to submit to a great deal of governmental regulation and inquiry, but he wants to be assured that that inquiry and regulation bears equally, uniformly and impartially on all his competitors. He is satisfied that he can pass on to the consumer the increased cost of manufacture entailed by reasonable and humane laws, relating to sanitation and safety of his employees so long as these burdens rest equally upon all engaged in the same line of business.

I am informed that at a recent hearing before the New York legislature, on a bill fixing the maximum number of hours per week during which women might work in factories, the attorneys for the textile manufacturers opposed the bill on the ground that the differential in wages and working time which would result, as compared with Pennsylvania and with some Southern states where a longer working week was allowed, would be ruinous to their business. These attorneys declared, "That they and those whom they represented would be glad to go to Washington and favor, as a national law, the same measure which they were opposing as a state law." Without doubt there is some truth and force in the position thus taken by such manufacturers.

The manufacturers in the progressive state, which enacts such humane laws entailing expense upon them say, and probably will find, competitors in the same line of business in other states where such laws are not in force, producing the same line of goods much more cheaply and thus underbidding them in the markets of the world. This may result in either totally ruining or seriously damaging the position of the manufacturer in the progressive state.

It must be apparent, therefore, that if such salutary laws must be passed and enforced—as all must concede—that there should be more or less uniformity of legislation in all the states where such industries are carried on, or the enactment of Federal laws covering the subject matter. This latter alternative has been seriously urged by many manufacturers and political economists, but, in my judgment, is not feasible or possible.

Federal legislation, under the Interstate Commerce Act, may be applied to interstate railroads, and other interstate utilities, but most of the product of our manufacturing industries are not impressed with an interstate character. They may be consumed in any state, and when finished at any manufactory, are not within the scope and control of interstate commerce legislation. Placing such products upon a common carrier does not change the character of the product. After a product is finished and capable of barter and sale, it does not become contraband or non-salable when placed upon an interstate common carrier. Moreover, even if it were feasible and within the scope of interstate commerce legislation, it would not be advisable to place the control of the manufacture of produce and merchandise within the jurisdiction of the Federal Government. A Federal law must be uniform in all its application to all parts of the United States, and a law which might be salutary and advisable relating to the manufacture of goods in the tenement districts of New York, Philadelphia or Chicago, might be grossly unjust and unduly onerous in western villages and cities.

A fire-escape in a great city surrounded by conflagration hazards might be unnecessary and unduly expensive in a western village. Absolute uniformity of laws relating to the sanitation and safety of working men in all parts of the United States under all circumstances is not demanded, and, in fact, unnecessary, but uniform laws or laws approaching uniformity in the different states engaged in like industries under like circumstances is an attainment much to be desired.

It has been urged that it is impossible to secure uniformity of legislation upon any subject in all of the forty-eight states of the United States. This I believe to be true. There are so many different circumstances and environments, and so much difference in the methods, habits and occupations of citizens in the

forty-eight states of the United States, that public sentiment could not force absolute uniformity of laws in all particulars. Nevertheless I believe that co-operation between the great manufacturing states of the United States towards the securing of the same or similar laws affecting such industries is urgently demanded, and that it is not difficult of attainment. Geographical locations, facility of transportation and availability of the raw products necessary to the carrying on of many great industries necessarily centralizes these industries in certain fixed localities. Most of the coal mining of the United States is carried on in five or six states. The manufacturing of textile fabrics is confined to New England and two or three Southern states. Most of the clock and watchmaking is confined to a few states. The manufacture of flour is confined to but a few states. The manufacture of iron and steel is confined to but a few states. The production of cotton is confined to the Southern states. The production of corn and wheat mostly to the states of the Central West. Numerous other instances might be given where the manufacture of certain products is confined to certain limited districts.

From this it follows, in my judgment, that co-operation between states engaged in like manufacture can secure the passage of laws substantially uniform in relation to the conduct of such character of business. Great manufacturing enterprises can only be carried on where power is easily developed and raw products and transportation are accessible.

The time has come, in my judgment, when the different states of the United States engaged largely in the manufacture of industrial products should, through commissions appointed by the legislature, or the executive of these states, arrange for an investigation of the conditions relating to manufacturing and the advocacy of the laws covering these industries in so far as the health, sanitation, morals and safety of the men and women engaged therein is concerned.

Modern conditions and overwhelming public sentiment favors the passage of such laws. The only obstacle in the way is the refusal of some jurisdictions so to do, thus entailing among the manufacturers in those states responding to this public sentiment the hardships of unfair competition by manufacturers in other states, or driving them out of these states which respond

to the demands of modern progress into the states which refuse to heed the cry of humanity for decent treatment of the workmen.

I am confident that if the great manufacturing states of the United States through their legislatures authorized the creation of commissions for securing the enactment of uniform laws relating to safety and sanitation in manufacturing industries, and if these commissions meet in a spirit of fairness and impartial justice, they can before the meeting of the next ensuing legislatures, recommend to their respective legislatures the passage of laws affecting with substantial uniformity such manufacturing industries which will be just to both employer and employee, and meet the demands of modern society for laws which will conserve the health and lives of the working men and working women of the nation.

This step towards co-operation of the states in procuring uniformity of laws has been advocated heretofore by some of the best thinkers and political economists of this country. Upon all subjects, of course, it is impossible to secure this uniformity, but upon many subjects co-operation can be secured. For many years uniformity of divorce laws had been advocated by some of the ablest men and women of the country.

Uniformity of state labor legislation has been advocated not only in this country, but in many countries of Europe.

A number of treaties of international importance have been made affecting labor. In 1906 fourteen nations united in a treaty forbidding the night work of women in industries. In the same year seven nations united in a treaty forbidding the use of white phosphor in the manufacture of matches, in order to stamp out the phosphorus necrosis which is so prevalent in this industry.

In 1904 a treaty was made between France and Italy to secure for the workers of each of these countries advantages in the savings banks and the insurance institutions of the other country. In July, 1909, a treaty was made between France and England giving the workmen of these countries reciprocal rights with regard to compensation for accidents.

Samuel Gompers, president of the American Federation of Labor, is on record as favoring uniform laws regulating child

labor and woman's work, and especially the normal work day, hours of labor, compulsory school attendance, and, "even above all these, compensation for the victim of industry."

John Mitchell a short time ago declared: "The workingmen, in common with all other citizens, are interested in the subject of uniform legislation among the various states and they recognize the necessity and the importance of systematic efforts in this direction. Especially are they interested in uniform and effective legislation for the prevention of industrial accidents."

John Hays Hammond also has declared: "Uniformity in the mining laws of all the states is indispensable. It would obviously be unfair for a state to impose drastic legislation upon its mining industry, adding to the cost of production, where laxity in this respect prevails in neighboring sister states."

Isaac N. Seligman, speaking for the National Child Labor Committee, declared: "The importance of uniform legislation is obvious, particularly where states are within the same industrial area."

It may be objected that the enactment of such uniform laws by conference between the legislative committees or commissions from the different states contemplates and requires a compact between the states, and that such compacts are a violation of Section 10, Article I, of the Constitution of the United States, which declares, "That no state shall enter into any treaty, alliance or confederation." My answer to this is that no official compact or treaty between the states is necessary.

The passage of uniform laws in each state corresponding with the laws of a sister state will be the result not of interstate agreement, but the result of interchange of experience and wisdom between the citizens of such states. Identical or similar laws can be passed by such great nations as Great Britain, France or Germany without compact, and will be binding upon the citizens and subjects of these great nations when enacted.

Similar, aye, even identical laws are now in force in many of the states of the United States, not as the result of interstate compact or treaty, but as the result of the fact that public sentiment in the several states was harmonious and secured the passage of such similar or identical laws. But it may be said that the securing of such uniformity of laws by conference be-

tween interstate commissions will be a matter of slow development. I think not.

The American Bar Association some twenty years ago began a campaign for uniformity of legislation in the different states. It has secured the official selection of uniform state law commissioners in forty-four states and territories. These commissioners have secured the adoption of a uniform negotiable note bill in thirty-eight of the states, territories and Federal districts, a uniform warehouse receipts bill in eighteen states and a uniform bill of lading act in two states. On the pure food and drug matter they urged the adoption by the states of the Federal Act, which has already been endorsed by thirty-five states. Their marriage and divorce act has been adopted in four states.

The result of these activities is promising. If every state commission acts vigorously and promptly they can secure uniform or similar laws relating to sanitation and life saving in the industrial states within a reasonable time. If the commissions upon conference can agree upon a uniform law, the securing of the enactment of this law in the several manufacturing states is certain to come within a reasonable time. Even if there should be delay between the agreement upon such a law in these conferences, and the enactment of the law in the several states, the progressive states can place such laws upon their statute books to take effect when all of the manufacturing states shall enact them in their several jurisdictions.

I have no doubt for instance, that the state of Illinois could place upon its statute books a law covering sanitation and safety of employees in manufacturing industries, which would receive the approval of the legislative commissions from the several manufacturing states, with a proviso that said law should only go into effect when the Governor of the state shall ascertain and make proclamation that said law has been placed upon the statute books of certain other states. It is within the province of a legislature in enacting a law to fix the time for its going into effect, and such time may be fixed as of a positive date or upon the happening of certain events officially found and promulgated. Uniform laws enacted by the great manufacturing states relating to sanitation and the safety of life and limb of industrial workers is a crying

demand of the times, and I believe is a matter of early accomplishment.

This brings us to the consideration of what should be the general character of such laws. Many of the states of the United States have enacted employment laws of great length and particularity. They have specifically covered the number of hours per day; limitations of hours as to women and children; registration of factories and warehouses; inspection of premises and appliances; safety devices for machinery; safety devices for scaffolds, hoists, elevators and fire-escapes; ventilation and sanitation.

Such states, have, as a rule, after the passage of such acts appointed factory inspectors to enforce compliance with these acts. Other states, notably, Wisconsin, California, New York, Ohio and Pennsylvania have contented themselves in a broad way in placing upon the statute books simple, concise laws, demanding the adoption of safe machinery, safe buildings, safe appliances, and safe employment, and requiring that all things should be done that are reasonably necessary to protect the life, health, safety and welfare of the employee. These states have then created industrial commissions with power to hear, examine and determine all questions relating to such safety, and welfare of employees, and then empowered these commissions to adopt general rules by order of the Commission, which orders shall have the force and effect of laws.

In other words, these states give their industrial commissions so created, what is practically legislative power in the matter of the declaration of what buildings, tools, and appliances are safe, sanitary, and for the well-being of the workingmen. While much can be said in favor of the creating of such administrative commissions, and in favor of permitting such commissions to carry out the main, broad and comprehensive intent of the law in favor of sanitation and safety by administrative order in detail matters, it will be urged against giving such tremendous power to these commissions that it is an abdication of the law-making power of the state, to-wit; the legislature of its legislative powers, and that such delegation of legislative powers to such commissions is illegal and unconstitutional. Until the courts have finally passed upon these questions in detail we cannot safely say



whether this quasi-lawmaking power of the commission will be upheld.

I am here simply to discuss, not the legality of such laws, but the policy of their enactment if they can be enforced. As a matter of policy I believe that in the determination of such questions as to what is the latest and best safety device to be adopted; what is the best method of securing the best ventilation; what is the best and latest method of securing employes from occupational diseases, and questions of like character, that such matters ought to be left to a standing commission which is always in session, to be determined by such commission from time to time by frequent investigation with the assistance of the most modern experts and scientists.

Changes in the forms of machinery are taking place almost monthly. What is a modern safety securing machine today may be obsolete tomorrow. The science of sanitation is growing by leaps and bounds. Methods which might be approved as skillful and up-to-date this week may be discarded as obsolete and out of date next week.

A commission created for the purpose of keeping pace with the march of modern science with power to examine from day to day and from week to week new methods and new contrivances would have a facility of power and effectiveness which could not be obtained in any cast-iron law passed by a legislature in its biennial sessions. I believe in the creation and operation of such commissions operating through administrative orders so far as the courts will permit same to be done.

However, I see no good reason why a legislature should not in its laws relating to manufacturing industries incorporate in such laws full and plenary provisions securing safety and sanitation by methods which have received the approval of science after full investigation up to the date of the passage of such laws, leaving the industrial commissions created contemporaneous with the enactment of such laws to supplement these laws in detail matters by commissional order. Such commissional orders, however, should be uniform and applicable alike to all classes of citizens and manufactories in similar classes.

I doubt much the advisability of that provision of the Wisconsin law which permits a commission to make special orders ap-

plicable to special cases. Private legislation by legislatures in the past appearing on the statute books in the shape of private laws became a scandal and a disgrace and forced in many states a revision of the constitution, prohibiting such legislation. Special orders by a commission seem to me just as objectionable as private laws enacted by a legislature. In some cases such special orders work no injustice, but the power to make such special orders opens the door to the possibility of grave abuses, and, in my opinion, is dangerous and unnecessary.

I do not pretend to have made a careful examination into the workings of the Wisconsin law creating the industrial commission, which declares in such simple, concise, and generic language the duties of the employers of that state, and the powers of that commission, but I see no good reason why a legislature in the passage of laws covering the employment of men and women in the manufacturing industries should not place upon the statute books enactments requiring specifically the adoption of such measures and appliances as modern science and modern experience has shown to be necessary to, and productive of, the safety, health, and welfare of such employes, and then as auxiliary thereto appoint a commission with the powers given by the Wisconsin law to strengthen the statute law by investigation and commission order in relation to details relating to safety, health and welfare, which may not be specifically covered by such law. This in my judgment, would be a wise and conservative method of procedure.

Reasonable laws for the protection of the life, health, safety and welfare of employees are essential to the political and social health of the states and the nation. Such laws should be uniform in fairness to the employers. Uniformity should come, and will come, from co-operation between the states, and it is the duty of every citizen interested in the well-being of our industrial classes, and the prosperity of our country, to co-operate in bringing about this much desired accomplishment.

GOVERNOR BYRNE—This subject is now open for discussion. I find a memorandum on the desk here asking that the Governor of Massachusetts speak on the question. I am sure the Conference will be glad to hear from the Governor of Massachusetts.

GOVERNOR WALSH—At the request of some of the governors I

agreed to discuss the operation of the Workmen's Compensation Law in Massachusetts. You will appreciate, of course, that what I have to say to you is extemporaneous. I have not had any opportunity to prepare a paper, and will not attempt to discuss the whole subject in the logical comprehensive way that the subject merits.

I suppose the reason for asking me to say something upon this subject is because the Workingmen's Compensation Law became operative in Massachusetts the 1st of July, 1912, and was in operation eighteen months when I became governor, and that one of my recommendations to the legislature provided for the correction of many of the evils found to exist in the law during its operation of eighteen months, and that those corrections have been made this year. We now think we have in Massachusetts a model Workingmen's Compensation Law.

Perhaps before any discussion upon the law of Massachusetts is undertaken we ought to ask ourselves: What is the purpose of the Workingmen's Compensation Law? Why has there been a movement in this country for the adoption of a law similar to the Workingmen's Compensation Law of Germany and of England? Well, briefly, the reason was a demand upon the part of the people, the working people, to do away with what I think were cruel rulings of our courts, setting up contributory negligence, negligence of a fellow servant, and assumption of risk doctrines, when injured employes brought suits in our courts. No constitution and no statute in this country has ever recognized those doctrines. They are the doctrines of the courts, that have come down to us from other generations. And when we found that these rulings of the courts practically prevented recovery of damages on the part of injured employes, the remedy, as sought in this country, copied also from England, was the Employers' Liability Law.

I do not know whether or not all of the states have that law. We have had it in operation in Massachusetts since 1888. That law was passed to assist injured employes to recover compensation, when injured in the course of their employment. In operation it worked to the disadvantage of the employe. It involved long delay in the courts. It involved expensive litigation. It required a suit brought by the employe against his friend, the

employer. It required competition between the employe and the employer in the getting of testimony to describe how the accident occurred. And here too the rulings of the courts in our state, and in other states, were detrimental, in a great measure, to the injured employe. I can recall within my own lifetime—in fact, I can recall within four years—going into the courts and pleading for injured workmen under the Employers' Liability Law of our Commonwealth, only to find these doctrines of the court set up as a defense. And I remember in one case tried five years ago where there were actually five trials,—a suit in which a widow attempted to recover for the death of her husband. The first trial was held before a jury and resulted in a verdict of \$3,500 for the plaintiff, and the company appealed to the Supreme Court. The Supreme Court said that the justice who presided in the Superior Court had made a misruling on a matter of evidence, and the case was sent back for a retrial. A retrial was had before a jury and another verdict rendered in favor of the widow and the company again appealed to the Supreme Court. The Supreme Court upon this appeal said that the judge in his charge to the jury had made a mistake in the law, and the case was again sent back. As the verdict ranged between \$3,500 and \$4,000 in each case, you can appreciate the tremendous expense of the litigation to the widow. Finally, after the fifth trial, the case was settled, after six years of delay and after a tremendous expense, of course, to the plaintiff, who got no costs of court in any of the trials except the very last trial.

So that the feeling that the Employers' Liability Law was not meeting the requirements of our time led to the agitation, in Massachusetts, for the Workingmen's Compensation Law. Now, it is interesting to know that under the Employers' Liability Law, as it operated in Massachusetts from 1888 until July, 1912, only eighteen cents of every dollar paid in premiums by the employers and manufacturers went to injured employes, while 82 cents of every dollar went to the liability insurance companies. This also was an incentive to the movement in our state for a Workingmen's Compensation Law. Finally one was adopted which provided that one-half of the weekly wage should be paid to the injured employe during the time of incapacitation, the maximum period of time being fixed at three hundred weeks, and the maxi-

mum amount to be paid was fixed at \$3,000. The law was optional. An employer was not obliged to come under the law, but if he did not come under the operations of the law our act took away from him the defenses which theretofore had protected him in the courts, assumption of risk, contributory negligence, and negligence of a fellow servant. So that practically every employer in the state came under the operation of the law. It was not compulsory with the employe, but the law provided that the employe was assumed to accept the provisions of the law unless, within thirty days after entering the contract of employment with his employer, he gave notice that he elected to stand upon his common law rights, or upon the rights given him under the employers' liability act.

That law, providing for these benefits, was in operation in Massachusetts for eighteen months when I became governor, and I asked for some statistics from the insurance department of our Commonwealth, and from the Industrial Accident Board, which is a commission of five members who have charge of the administration of this law. And what do you suppose the statistics showed? This is interesting. That over five millions of dollars had been paid by the employers and manufacturers of Massachusetts to insure themselves against injury to their employes under this law, and that only one and three-quarter millions of that money went to injured working people in Massachusetts. When these statistics came to me I made the remark that "This law is misnamed. Instead of being called 'The Workingmen's Compensation Law' it ought to be called 'The Liability Insurance Companies' Compensation Law.' " Although we had made some progress when we changed from what the statistics showed under the Employers' Liability Law, yet the operation of this law in Massachusetts shows that only 32 cents of every dollar paid by the employers of Massachusetts went to injured working people, while 68 cents of every dollar went to the liability insurance companies.

So to change or to remedy the evils that we found to exist under that law, eight recommendations were made to the legislature, all of which were adopted this year. The Workingmen's Compensation Law of Massachusetts now provides that hereafter injured working people shall receive two-thirds instead of one-

half of their weekly wage during the time of incapacitation. Secondly, that the period of time shall be now 500 weeks instead of 300 weeks. Thirdly, that the maximum amount of money to be paid in case of serious injury shall be \$4,000 instead of \$3,000. And fourthly, the amount of money to be paid to the widow or dependent next of kin in case of death shall be \$4,000 instead of \$3,000. Fifthly, that in the case of an injury to a minor, the Industrial Accident Board shall have the power to have the compensation paid in a lump sum instead of by weekly wage, so that the provision can be made for the education and training of the minor who loses an arm or leg, in some line of work which he can still perform. Other changes of minor consequence have also been adopted.

The result of these changes in the law means that statistics hereafter will show, assuming the situation which existed during the first eighteen months of the operation of the act will continue, that 60 cents of every dollar paid by the employer and by the manufacturer shall find its way to the injured employes of the commonwealth, and the liability insurance companies must be content with a profit of 40 cents upon every dollar.

GOVERNOR EBERHART—Is there anything to prevent the rates of the insurance companies going up?

GOVERNOR WALSH—Let me tell you about that! That is very interesting. Since the operation of the Workingmen's Compensation Law in Massachusetts, during the first eighteen months there has been a reduction of 35% in the rates to the employers and manufacturers, because, of course, the liability insurance companies began to see from month to month what these figures were going to show as soon as statistics were asked for. There has been an actual reduction of 35%. Now, then, when I made my recommendations to the legislature, after conference with the Industrial Accident Board on the 8th day of January, on the 28th day of January the liability insurance companies made another reduction of 25%. So that the manufacturers and employers of Massachusetts are paying 60% less premiums to-day than they paid before the Workingmen's Compensation Law became operative. This very year, with these increased benefits in operation, not only have the employes been given additional benefits, but the manufacturers are paying 25% less than they

were paying the 1st day of January last year, with these very much advanced and very much increased benefits.

GOVERNOR STEWART—What have you with relation to a waiting period? That is, the period immediately after the accident?

GOVERNOR WALSH—Two weeks. But that has been reduced to one week under the change in the law. We also limited the amount for medical assistance under the original act. That has been changed so that medical attendance can be continued for a longer period of time.

I want to explain what I believe was the mistake made in Massachusetts. The original act provided for a state insurance company, the creation of an insurance association composed of the employers and manufacturers who would organize and form a mutual company of their own. The influence of the liability insurance companies was so powerful that they secured the insertion in the original act, on the last day of the session of the legislature, of a provision that the liability insurance companies could insure under the act. So that we had at the outset in Massachusetts—and this is very important because we have that problem now, of course—a mutual company organized by the state with the employers of the state forming the stockholders and the directors, and the liability insurance companies, competing against each other, with the result that in Massachusetts the liability insurance rates are less than in any other state in the country. Why? Because we have competition. Now, this year, after these recommendations were made to the legislature, the liability insurance companies reduced their rates 25%. A mutual company cannot reduce its rates, as you know. The mutual people came up to the State House and said: "We are going out of business; the liability insurance companies have co-operated throughout the country, have combined against us, and are forcing the rates down in Massachusetts so that we won't be able to compete with them, and their purpose is to make the rates lower in Massachusetts than in any other state in the Union,—and make the manufacturers and employers of other states—the business of the stock company being nation wide rather than state wide—pay the difference, so as to drive the mutual people out of the field in Massachusetts."

I was in the position—you will pardon the personal aspect of this question—of either opposing a reduction of 25% by the liability insurance companies, or taking the side of the mutual companies and stating that reduction was wrong and could not be brought about because it was being done for an ulterior purpose. The result was that I sent a message to the legislature asking: first, that insurance be considered commodities under the state anti-trust law, and that if a mutual company could prove any combination upon the part of liability insurance companies to so fix and regulate rates as to be detrimental to, or for the purpose of destroying competition, that the attorney general's department should proceed under the anti-trust laws of the Commonwealth. The legislature did not agree to the recommendation, except to establish a commission to investigate the subject and report to the next legislature, and they did not this year enact the law I wanted, but took the first step by establishing the commission. I secondly argued that the Workingmen's Compensation Law cannot be a success anywhere without state supervision and regulation of liability insurance companies. First of all, in my judgment, and that is the judgment of the freemen of Massachusetts, the disinterested men, the only way to carry out successfully the Workingmen's Compensation Law is by state regulation of insurance companies.

GOVERNOR DUNNE—Would you go one step farther and say the state had the right to inquire into and regulate all insurance?

GOVERNOR WALSH—I have so recommended. And especially because insurance is very close to the individual, as much as the water supply. And, Governor, when the state undertakes to pass a law in the interests of the working people, as this was, it ought to see that it operates in the interests of the working people and not in the interests of the liability insurance companies. It is farcical and absurd to think the working people of the Commonwealth would find a law that was offered to them as a panacea for all their ills turn out to be a law which resulted in the payment of nearly four million dollars to insurance companies, three times as much money for these companies as for the working people of the Commonwealth.

GOVERNOR EBERHART—Has the state gone into the insurance business?



GOVERNOR WALSH—Absolutely. Massachusetts has an insurance company of its own—the employers themselves. Each employer employing up to 500 employes has one vote in this company.

GOVERNOR DUNNE—That would be state insurance. You are authorizing the people to undergo the risk and insure themselves?

GOVERNOR WALSH—Yes.

GOVERNOR AMMONS—You spoke about the reduction of those rates. You spoke about the employers all going into this business of insuring and being really partners in the insurance company. Now, were they able to reduce their rates by insuring by the wholesale, taking a whole establishment of 500 employes and insuring them all?

GOVERNOR WALSH—Why, the liability insurance companies, of course, go to an employer and say: "We will insure you against any damages you may have to pay to injured employes under this act, the Workingmen's Compensation Act," and of course the employer insures all, pays so much money, depending on the size of his payroll and the number of employes.

GOVERNOR AMMONS—Was that what enabled them to make this reduction?

GOVERNOR WALSH—Their profits were so great; yes sir.

GOVERNOR DUNNE—The rates were not reduced by the mutual companies; it was by the liability companies.

GOVERNOR AMMONS—I understood that. That the liability companies have reduced their rates. I was trying to find out how they did it.

FORMER GOVERNOR DAVIDSON—To drive the others out of business.

GOVERNOR WALSH—The mutuals found their rates were less than those of the stock companies, and the stock companies reduced to compete with the mutuals. Then to drive out competition they reduced rates below those of the mutuals, and of course the employers and manufacturers in other parts of the country must meet the losses sustained by these companies because of this cut in Massachusetts.

GOVERNOR MCGOVERN—Governor Walsh, do you mean to say that the rates of the liability companies in Massachusetts are now

so low as not to be remunerative? That there is a loss on the Massachusetts business?

GOVERNOR WALSH—They deny that. The mutuals say that it is a fact. When this law was pending and this trouble first came to my attention I was suspicious of the 25% reduction in rates on the 28th day of January after I had, on the 8th day of January, sent a message to the legislature asking for increased benefits. I first interpreted it to be an attack on the recommendations as to benefits, and took it as notice to the employers that they must get busy and stop the increased benefits pending in the legislature. That was the first natural judgment you would have. So I sent for the agents of all the liability insurance companies, some forty of them, and I asked them what this meant. In fact, I was suspicious that one of the state officials who had to agree to the reduction in rates had not done his full duty in the matter. I asked the liability insurance people what they meant by reducing their rates, and further whether or not it meant that, in the event of the legislature adopting the increased benefits recommended, there should be an additional increase in rates. They hesitated for some time, and I said: "I want to know for another reason, gentlemen, than the mere answer you may give me. Because, if you are going to increase the rates I am going to the legislature with a measure recommending that the state regulate your business and have the power to fix the rates, the same as it has with reference to utilities." They asked for time to consider the matter. They came back in a few days and said they did not intend to increase the rates.

GOVERNOR-ELECT CARLSON—Governor, have you at the present time any board with supervisory control over the liability companies?

GOVERNOR WALSH—No sir, we have not. Our insurance commissioner has to approve the rates, but he cannot take the initiative. This reduction of 25% was approved by the insurance commissioner, and he ought not to have done it if the liability insurance companies' story is true, if it was done for that purpose.

GOVERNOR-ELECT CARLSON—Why wouldn't it be proper to give a board in addition to supervising, the right to fix the rates?

GOVERNOR WALSH—I so recommended but I have not been able to get the legislature to do so. I do not know what your experience is with liability insurance companies, but they are pretty powerful factors in government. I daresay you agree with me, Governor Dunne, in that.

GOVERNOR DUNNE—We have reached a stage in our state where something will have to be done to correct unjust rates. Our dwelling house insurance is higher than in most adjoining states.

GOVERNOR WALSH—I was going to say, Governor Dunne, along the line of your paper, that our Industrial Accident Board, which administers this law, has control over dangerous machinery and can make recommendations and issue orders, and also has some power in the way of improving sanitary conditions, and the result has been a tremendous reduction in the number of accidents, and therefore a tremendous saving to the liability insurance companies, and a great saving to the employers and the manufacturers. But you cannot make a good Workingmen's Compensation Law unless you understand and appreciate always what its purpose is, that is to remove from society the burden, and from the government the burden, of supporting persons injured in the industrial occupations of our country. To remove from the children the necessity of being driven out in their early years, away from the schools, to go into the workshops to support their injured fathers.

GOVERNOR DUNNE—Does your commission or your board have the right to enter commission orders in reference to dangerous machinery?

GOVERNOR WALSH—Yes.

GOVERNOR DUNNE—Are those orders uniform or do they apply to specific cases?

GOVERNOR WALSH—In each specific case. Then we have also, Governor, another board. This board is studying occupational diseases. We have another board, the Board of Labor and Industry, which is organized for the purpose, first, of enforcing the labor laws of the Commonwealth; secondly, of regulating the health conditions of the employes of the Commonwealth; thirdly, which I think is a new venture—I have not heard of any other states doing it—promoting industrial development, encouraging the industrial activities of the state.

GOVERNOR AMMONS—How is it proposed that a commission can do that?

GOVERNOR WALSH—The same as your secretary of the Board of Trade does, or your Chamber of Commerce. Collect statistics, show desirable locations for manufacturing plants, railroad facilities, and places where there are skilled employees.

GOVERNOR AMMONS—Have you an immigration board and an immigration commissioner besides?

GOVERNOR WALSH—We have not an immigration commissioner.

GOVERNOR AMMONS—This is your immigration commission?

GOVERNOR WALSH—I would not call it an immigration commission. They do not study the immigration problem at all. We have discussed having one there but it has not been adopted.

GOVERNOR-ELECT CARLSON—Is there any reason or principle, independent of the influence on the part of the insurance companies, which your board should not, in the supervision, have the right to fix the rates?

GOVERNOR WALSH—I think they ought to have the right.

GOVERNOR-ELECT CARLSON—Well, now, if the real problem has been excessive rates, isn't that the very thing that should be hit at?

GOVERNOR WALSH—The problem is not excessive rates so much as it is the elimination of the waste between the employer and the employe. The purpose of the Workingmen's Compensation Law is to make industry pay for all the damage which it does to society, and therefore the state, if it undertakes to settle that question, ought to do it in such a manner that there would be no great loss in passing the money from the employer to the employe. There ought not to be the tremendous waste there is. There fore, I think the state itself ought to do it.

GOVERNOR-ELECT CARLSON—You compel the employer, practically, to insure, do you not?

GOVERNOR WALSH—He doesn't have to. He can stand upon his own risk. It is optional.

GOVERNOR-ELECT CARLSON—But in case he comes under the provisions of this law?

GOVERNOR WALSH—Then he is compelled to, of course.

GOVERNOR-ELECT CARLSON—Then why shouldn't it be the equal duty of a state, when this law is passed, to fix the rates?

GOVERNOR WALSH—You would be surprised to find the employers and manufacturers opposing it.

GOVERNOR-ELECT CARLSON—That is what I want to know, and why are they opposing it?

GOVERNOR WALSH—My recommendation to the legislature on the matter we have in mind was this: That the Industrial Accident Board shall have the same power to fix rates and the same supervision over liability insurance companies as the Public Service Commission now has over the railroads of the state, and that the board have the necessary power to obtain all necessary information required by it from such insurance companies. It was not adopted.

GOVERNOR MCGOVERN—Mr. Chairman, there are a number of engagements that are now overdue.

GOV. WALSH—I have finished, unless there is some further information desired, or some questions. I will be here this afternoon.

GOVERNOR MCGOVERN—I did not mean to terminate your address, but to enable you to go on after lunch.

GOVERNOR WALSH—I appreciate that, Governor.

FORMER GOVERNOR FORT—Governor, I would like to ask you (Governor Walsh) a question, because we have exactly your law.

GOVERNOR WALSH—That is the original law. Not the modified law.

FORMER GOVERNOR FORT—You have modified it somewhat?

GOVERNOR WALSH—A good deal, I think.

FORMER GOVERNOR FORT—Yes, I know; increasing the benefits, and other things. Isn't it a fact that all the insurance companies, indemnity companies, increased their rates when the New Jersey act was passed in 1911, from 40% to 100% and 125% over the old rates under the common law rule?

GOVERNOR WALSH—I do not know about New Jersey, but I will tell you about Massachusetts, the information the commission furnished me—it is in a sentence here, in connection with the last recommendation I made, that is, the recommendation I read:

“It should be called to your attention that investigations of the Industrial Accident Board have shown that of each dollar of premium paid under the Workingmen's Compensation Act, 35

cents has been paid in benefits and 65 cents is retained by the insurance companies for their various services."

That is not correct. Further information shows it was 32 and 68.

"This average is the amount the insurance companies claim they must have to do business, but this should not be a matter of mere guesswork; the rates should be reasonable and consistent with the public interests. The need of adherence to this principle was emphasized in the results of special study begun in November, 1912, by the Accident Board, which shows that only 12% of the premiums charged went to pay claims under the Act. The first six months only 12 cents of every dollar went to pay claims under the Act. When in January, 1913, the report of the results of this inquiry was to be submitted to the governor, the insurance company"—this explains, Governor Dunne, the reduction of the insurance companies—"which up to that time had been protesting that the rates were not high enough, made a horizontal reduction of 25% effective after July 1, 1912. The reduction was a horizontal reduction and while in some cases entirely justified, was, in the greater number of cases, wholly inadequate. This action, in itself, taken with the fact that reductions since made making the total 35% of the rate originally charged, points to the necessity of the regulation of the companies by the Board which is administering the Act."

There was 35% reduction before January 1st of this year. Now, January 28th, this year, another reduction of 25% was made, so there has been a reduction of 60% under this Act.

GOVERNOR MCGOVERN—I move an adjournment until two o'clock, this afternoon.

(Motion seconded and unanimously carried).

## AFTERNOON SESSION

The Conference was called to order at 2:30 o'clock P. M., Governor Byrne in the chair.

GOVERNOR BYRNE—The Conference will come to order. I am not the regular presiding officer for this afternoon, but at the request of the Chairman of the Executive Committee, I will preside for a time.

What is the pleasure of the Conference? Shall we continue the discussion of the paper that was under discussion at the time we adjourned for lunch, or shall we take up the regular program?

GOVERNOR DUNNE—I would like to hear from Governor Eberhart.

GOVERNOR BYRNE—The Governor of Minnesota is called for.

GOVERNOR EBERHART—Mr. Chairman and Gentlemen: The paper read this morning is of far reaching importance to every state, and it seems to me there is quite a unanimity of opinion as to the necessity for uniformity in this kind of legislation. I can speak from the standpoint of a employer, and say to you that the diversity of legislation in various states handicaps every business man engaged in manufacturing or other commercial enterprise. We find in computing cost and in considering competition that in some states we have to figure 3%, in other states up to 6% under these laws, and naturally any employer who has to figure a 6% allowance for protecting himself against injuries to employes cannot compete with one who has to pay only 3%, or has no expense under such laws. Now it is essential that there should be uniformity. From what I have heard among the various governors here, would it not be a good plan to have a Conference of representatives from all these manufacturing states, at least, to study all these compensation and liability laws with a view to securing uniformity?

We have a Workmen's Compensation Act in our state somewhat similar to those described here today. It may be better in some instances, and it may be worse in some instances. We must bear in mind that all this legislation is enacted by human beings who are fallible, and naturally every law, in its initial stage at least, must be more or less imperfect. But the real difficulty, as

was so well stated by Governor Dunne, is that we have so many kinds of workmen's compensation laws that both employers and employes are completely at sea. It would be better for both and for all if many of these differences could be eliminated.

While my views may not coincide with those of many of you, I must say that I am opposed to the state embarking in the insurance business. As stated yesterday, I do not believe the state should carry on any business that can be carried on as well, for the benefit of all concerned, by an individual or association of individuals; but I realize that there is but one alternative to state insurance and that is state regulation of the insurance business.

Now we should be definite and positive. The state should have power to regulate all lines of insurance. Every insurance company should be allowed to make its own rates, but, upon complaint by any one affected, the state should have the right to step in and determine whether a rate is reasonable or unreasonable. If the rate is too high in any case the state should have power to determine how much lower it should be, and fix the rate in that particular case. The rates in some cases, perhaps, might be too low, as may have been the case in Massachusetts where they were reduced on account of the war between the mutual and the old line companies. In such a case the state should have the power to order an increase. If we have to concede that the state has not this power to regulate, why, then there is only one alternative, and that is for the state to go into the insurance business.

Now, if all the governors at the Conference would get together and agree on certain principles, and call a conference of insurance men and representatives of labor and capital in various states, at a central point, and then make certain recommendations to be submitted by the governors to their legislatures, I believe we could secure uniformity.

As an employer I want to say to you that these questions will all be presented to Congress, sooner or later, if the states will not do the right thing. There are employers of labor engaged in business in the various states. If they cannot secure uniform legislation in the states, there is only one thing for them to do, and that is go to Congress for relief. There isn't any doubt but that the states can, should and ought to be willing to handle these matters, but the trouble is there has not been any effort that has



been worth while, so far, to have all the states agree on a uniform law or principles.

While this Conference does not recommend specifically, or pass resolutions, I do not see why we could not have an understanding here that a conference of experts be called, representative of the various states, to consider these laws and their fundamentals and to consider the results obtained through the various laws enacted, and secure the very best results possible for our states. From my own personal experience as an employer, I know it is essential for those who are employing labor to have this legislation substantially uniform, and if they cannot secure this through the states, they are going to do one of two things: they will appeal to Congress for a Federal law, or they will leave the states which have the most burdensome laws. You can readily see that a manufacturer who has to set aside a fund of 3% or 6% under these laws cannot compete with his neighbor who has to set aside a smaller fund or none at all. I am interested in some hazardous employments and the rates are high; these rates vary more than those for the less hazardous businesses.

I think it is very important for some of us at this Conference to call this meeting. We should agree, at least, to meet in the near future. If we could meet before the sessions of our various legislatures, compare notes as to the compensation acts in the several states, and work out a plan that is feasible for all the states, we will have accomplished much. I believe we ought to do that rather than have the states go into the insurance business.

In my state I have had a number of talks with the insurance companies, or their representatives. They realize that one of two things is coming. That there must be effective and efficient state regulation, or there must be state insurance. There can be no other alternative, and I think if we have a conference of this kind and put the matter before the insurance companies, they will be willing to join with the states and with the labor organizations in securing the enactment of fair compensation acts.

In my state we have had experience similar to yours in the other states. In the past two years we have reduced the number of accidents between forty and fifty per cent. We had no difficulty in securing the co-operation of labor and capital, and I think in this Conference I am proposing that there should be

representatives of labor and capital, all to be heard, and there should be an agreement, if possible, that would unite these two interests, because there can be no successful operation along manufacturing lines unless the laws that are enacted are favorable not only to labor but also to capital. We must have co-operation. I can conceive how it would be possible for us to have a conference of this kind and agree upon a comprehensive workmen's compensation act that would apply everywhere, except, perhaps, in the case of certain local conditions. We should agree upon the general principles.

I think this is a highly important matter. The subject discussed by Governor Dunne is an important one in all these great agricultural states now going so largely into manufacturing, as my state is. It used to be an agricultural state, but is now a large manufacturing and mining state as well. I can say, on behalf of Minnesota, that we shall be glad to be represented in a conference called by the Governors, and I do not think we should wait for the legislatures in this matter. I think the governors of the various states should take action. A small commission, I think, would be better than a large one, say from one to three men from each state, who could meet at a central point and go over all these laws and discuss them carefully, have experts there, and then recommend to every state a law that would be fair and just. We have experience now to draw from. I do not know whether it is proper to make this suggestion, and I do not know whether we can handle it or not, but it seems to me the best solution, and, I judge from the sentiments expressed by the different governors, they will all be glad to join a movement of this kind.

GOVERNOR MCGOVERN—Mr. Chairman: In his admirable paper, read this morning, Governor Dunne made some reference to the laws on workmen's compensation in effect in Wisconsin which I wish briefly to discuss. I regret that I was not in the room during all of the time the paper was being read.

Governor Walsh of Massachusetts correctly said that the purpose of laws of this sort is to shift the original loss or burden that accompanies an industrial accident from the shoulders of the injured man or injured woman, as the case may be, to the employer, or, more properly speaking, to the industry, and so distribute it as an element of cost that will enter into the price of

the commodity manufactured. The reason for this view is that as industry is now conducted accidents to working men and working women are in large measure unavoidable. To a certain extent they are not preventable, they are bound to occur quite independently of the presence of negligence on the part of the working man or his employer.

Now, then, I believe Wisconsin can claim to be the first state in America to put a workmen's compensation law into effect. We have therefore had the longest time in which to study its operation and to note its beneficial or detrimental effects, as the case may be. Let me briefly refer to the general results, because I do not wish to talk long.

Six years ago or so an investigation was made here concerning the amount of money paid to the working people of the state as damages because of personal injuries sustained by them while at work, and it was found that the amount, including cash payments, hospital care, and medical attendance was about \$112,000 a year. That was under the old system of negligence law.

GOVERNOR DUNNE—The common law.

GOVERNOR MCGOVERN—The common law, under which controversies were threshed out in court. Last year, under the new law which provides for compensation in every case of injury while the employe is at work, the amount of damages, including the same elements, amounted to \$1,250,000. Now, here is a tenfold increase in six years, and, to my mind, it is a striking vindication of the wisdom of the more humane body of legislation we now have.

But this is not all. Governor Walsh has said that in his state it has cost the employers less to secure these greater benefits for employes than it did before. I do not know that this is so in Wisconsin. I understand, but I have not the figures to enable me to make a precise statement on the subject, that no necessary added burden was imposed upon employers of labor by our laws. Moreover taxpayers as well were benefited; for, under the old order, all disputes were settled in court, and the taxpayer footed the court costs for the maintenance of the court and the compensation of jurors and it not infrequently happened that the expense to the public for the determination of those disputes amounted to as much as the sum total of damages received by the claimants in

this class of cases. Under the new order this item of expense is entirely saved. Governor Dunne says it costs \$50 a day, on an average, to maintain the courts in his state. One of these cases usually occupied about a week in trial, and negligence litigation as a whole consumed more of the time of our courts than any other single class of lawsuits.

GOVERNOR O'NEAL—Can you recall, Governor McGovern, that percent of litigation with reference to employer's liability?

GOVERNOR MCGOVERN—No, I can not. The facts have been ascertained but as I have not refreshed my recollection on any of these matters recently, I shall not attempt to say what the percentage is.

GOVERNOR O'NEAL—A very large proportion.

GOVERNOR MCGOVERN—Yes; a very large proportion. And of course in only about one lawsuit out of ten did the plaintiff prevail, or succeed in getting judgment. The damages might be greater in exceptional instances than in any case under the new law, but the benefits were confined to a few fortunate individuals and were not distributed generally among the employes of the state.

Thus it seems to me to be fairly deducible from the experience in this state that we have effected a saving to employers, a ten-fold increase in compensation to working men and working women, and a reduction in the expense of government because of this change. But this is not all. There is an old adage to the effect that "prevention is better than cure", that applies here very nicely. However desirable it may be that the poor men or the poor women, working for a living in a factory, mill or mine, should be compensated promptly and adequately for injuries received while at work, it is a still better thing so to arrange matters that there shall be fewer injuries and less loss of life. And this result also has followed. Just as soon as the original burden was shifted from the shoulders of the employe to the industry, the men in charge of industrial operations saw to it that so far as possible accidents were prevented; and in this effort they were assisted by the laws of our state, to which I will refer in a little while, which require the placing of safety appliances about dangerous machinery, and which demand that places of employment shall be safe and sanitary. The net result is that in six

years the number of industrial accidents has been cut in two in Wisconsin. Last year, although we had grown in population, in industrial development and prosperity, the number of industrial accidents here was one-half what it was six years ago. Now, of course, no one can really compute in dollars and cents the saving thus effected in safeguarding and conserving the life and health of our people. It seems to me this benefit is far more important than any of the others to which I referred a moment ago. It is a real conservation of the vital and industrial resources of the state, of the life and health and well-being of the people themselves.

And I believe it can now be truthfully said in Wisconsin that, although there was opposition to the enactment of the workmen's compensation law and the industrial commission act at the time these measures were proposed, as there has been like opposition elsewhere, now, after we have tried them, there is general satisfaction and, so far as I know, practically universal satisfaction, not only among the employes who are protected in their lives, limbs and health, but among employers who hitherto resisted the enactment of statutes of this kind. We have come to a better understanding, to better harmony of feeling, and to the establishment of more amicable relations between employers and employes than was ever before the fact in this commonwealth. So that we may look at the labor legislation of Wisconsin and its administration with a great deal of genuine satisfaction. Individual employers have criticized the Industrial Commission for awards made in particular cases. A few of these have been called to my attention; but I know of no case where the criticism in reference to the specific decision in question was not accompanied by the general commendation of the law and general approval also of our method of administering it. So I feel well assured of the correctness of what I am saying.

Now, then, the big question, as Gov. Dunne has said and the other speakers have said, is how to bring about practical uniformity among all the states on this subject. It is true that among the men who represent industry in states where these laws have not been put into operation, that the strongest argument is the one suggested by Governor Dunne. They say that the passage or the enforcement of these humanitarian laws in their own states, puts them at an economic disadvantage as compared with their competitors in other states where similar restrictions are not

prescribed. Now, I can think of but one promising way in which uniformity can be brought about. You cannot bring it about, as Governor Dunne has said, by Federal legislation, as matters now stand. I need not stop to point out the reasons why this cannot be done. They have been sufficiently discussed. You cannot do it, ladies and gentlemen, by passing specific laws which will declare in detail what degree of sanitation, what degree of safety, what sort of safety appliances, should be required in any particular case. You cannot do this, because industrial conditions are one thing in Wisconsin, and another thing in Louisiana. Industrial conditions in California are one thing and in Maine another. And so of every other state. The question of child labor is one thing in one state and another thing in another state, because of differences in climatic and industrial conditions. But, notwithstanding these differences due to a variety of causes, it is still possible, it seems to me, to attain uniformity on the basis of such laws as we have here in Wisconsin. I say this not out of an abundance of state pride, ladies and gentlemen, though I am proud of my state; for I believe it possible even for the governor of a state to divest himself of state pride long enough to enable him to look at questions of this sort dispassionately and impartially. We can secure uniformity I believe throughout the several states by doing as we have done here in Wisconsin, by laying down fundamental rules that are equally applicable to all the states, and then by placing the administration or enforcement of these rules in the hands of administrative commissions, endowed with a liberal grant of power, so that the law may be adapted, the same rule, if you please, may be adapted to the industrial conditions of each and every state. In this way we may succeed in securing that harmony in the law called for by the requirements of uniformity, and that variety in its administration that is demanded by differences in industrial and sociological conditions in a country as large as ours.

Now, if I may trespass upon your time long enough to call attention to how this is done in Wisconsin, let me read the main central provision of our law, in order that I may challenge your judgment and your opinion as to whether or not it is not equally applicable in every state represented here. Here is the principal provision of our law:

"Every employer shall furnish employment which shall be safe for the employes therein and shall furnish a place of employment which shall be safe for employes therein and for frequenters thereof and shall furnish and use safety devices and safeguards, and shall adopt and use methods and processes reasonably adequate to render such employment and place of employment safe, and shall do every other thing reasonably necessary to protect the life, health, safety, and welfare of such employes and frequenters."

And then "welfare" is defined in another section as follows:

"The term 'welfare' shall mean and include comfort, decency and moral well being," and the words "safe" and "safety" are likewise defined in broad generic terms.

Now, the law stops right there, with that broad liberal dispensation of power to the Industrial Commission, and it gives that commission a discretion that is wise and elastic, in the application of it. Because, immediately following the passage of our workmen's compensation act, there was passed a law providing for our present Industrial Commission. This commission enforces this law so as to meet the requirements of conditions as they exist in Wisconsin. Yet any other state might copy our law and, with an equally competent commission, a specific regulation authorized under it might be different in Louisiana, or in Mississippi, or in Texas, or in Montana, or California, because conditions are different in each of these states. Thus may we succeed, it seems to me, in securing uniformity and at the same time that elasticity in administration which is absolutely demanded by diversity in conditions.

Governor Dunne said something about this being a delegation of power to the Industrial Commission.

GOVERNOR DUNNE—Legislative power.

GOVERNOR MCGOVERN—I mean a delegation of legislative power. It is not that. If it were, of course, it would be unconstitutional and void. The degree or sort of safety and sanitation that is required is prescribed by the legislature in this general provision to which I have called your attention; but the application of the rule in a particular factory at a particular time, under the peculiar conditions that exist then and there, is to be made by the Industrial Commission. But this is not a legislative act.

It is an administrative act; and the Board concerned in performing it is simply devoting its time and attention to ascertaining the facts upon which this law may operate. If they find conditions in a particular factory to be within the rule laid down in the law, they must approve these conditions. If they find them otherwise, they may make an order requiring the employer to alter them so as to conform to the law. This procedure is well settled by a decision of our Supreme Court in a railroad case; and the Industrial Commission Act follows the legal philosophy and phraseology of our railroad law. Our Railroad Commission law requires that all facilities for railroad transportation shall be reasonably adequate and that railroad rates shall be reasonable and fair. It stops right there. The work of administering these simple rules is then placed on the Railroad Commission. And the Supreme Court, when this portion of the law was challenged as an unlawful delegation of legislative power, said in effect: There is no delegation of legislative power here. The legislature has laid down the rule. What its application may be in any given case is ascertainable and was ascertainable at the time the legislature passed the law. It may not have been ascertained it is true, and it is the business of this commission to find the facts in each instance so as to determine whether or not the legislative rule has application, and if not, to require conditions to be so altered as to make the application reasonable and lawful.

GOVERNOR EBERHART—Wouldn't you go farther? Wouldn't it be well to expressly state in each law how much shall be paid in case of death by wrongful act, and have uniformity as to the amount? One state might provide \$2,000 and another state \$3,000. Uniformity could not be obtained in this way. Why couldn't we agree upon what should be the compensation for specific personal injuries? I think that should be added to your principle. This is of the greatest importance, as far as the employer is concerned.

GOVERNOR MCGOVERN—Undoubtedly that is true. Now, something was said by one of the speakers about exceptions in the Wisconsin law, or special cases.

GOVERNOR DUNNE—Special orders. I do not at all doubt that uniform orders regulating all factories are constitutional, but a specific order with reference to a specific factory, would not that



be special legislation? In other words, would there not be danger that the commission one day might go to one factory and, under certain conditions, make a special order relating to that factory that would not apply to another factory in practically the same condition?

GOVERNOR MCGOVERN—No, not if the conditions are substantially the same. The commission of course has power to classify employments and places of employment, and, in the application of the rule laid down by the legislature, it might reach one determination in one case because of peculiar surrounding conditions and another determination in another case when the circumstances were different; but in all the cases it would be simply administering the fundamental general rule that is equally binding upon all. That is what gives elasticity to the system. So far as I know, there have been no cases here of special orders or special applications of existing laws. Governor Dunne must be mistaken as to this.

GOVERNOR DUNNE—Isn't there a provision by which the commission can enter what are called "general orders," and then another provision permitting them to make special orders in special cases?

GOVERNOR MCGOVERN—I do not think that is the practice.

GOVERNOR DUNNE—I mean within the law itself.

GOVERNOR MCGOVERN—I do not know of that provision.

GOVERNOR DUNNE—I think there is some provision by which it can make a special order. I fear that might be a delegation of legislative power and open to the vice that applies even to the legislature. In our state, and in your state also, we had to amend our constitution so as to prohibit special legislation.

GOVERNOR MCGOVERN—It was that remark of Governor Dunne's that led me to take the floor, because it was a criticism I had never heard before of our law. I have hastily glanced through our law since coming back from lunch and I have been unable to find any such provision.

GOVERNOR WALSH—Why is it necessary? Why shouldn't the commission have authority to make special orders where women or children are employed?

GOVERNOR DUNNE—I would not have any objection to that. But as I understand, in the law itself, or in one of the rules of the

commission, there is provision that it may make a special order in a special case. That looks to me as though it would be open to the objection that is always made to private laws by the legislature.

GOVERNOR MCGOVERN—If that be in the law it is new to me, and it would be foreign to the genius and the spirit of our method of administering the Workmen's Compensation Act and these other labor laws.

Now, just one thing more and I shall be through. Something was said by Governor Dunne about the possibility of laying down specific requirements in the law, and then supplementing them by a provision that the commission should issue orders or formulate regulations in cases not covered by the act. I have been unable to bring myself to reconcile this proposal with either sound legal theory or good practice. Just to the extent that the legislature lays down specific provisions, it has departed from the plan for formulating a broad, general rule in generic terms and leaving its enforcement to an administrative board. And, of course, just to that extent, it has circumscribed the functions and the powers and the liberty of action of the board. Just to the extent that discretionary power is conferred upon a board without outlining the rule that must be its guide, there is an attempt to delegate legislative power. So I fear we should run into two difficulties by pursuing the course suggested. One a course of legislation which would not tend to promote uniformity among the several states, because the proposed specific legislation is not likely to be the same thing in Wisconsin and Tennessee, in West Virginia and Nebraska; and the other that your act might be held invalid because of an attempt unlawfully to delegate legislative power. On the other hand I can see no objection whatever in the policy of laying down the legislative rule, as we have laid it down here in Wisconsin, broadly, briefly, and generally and then turning the whole subject over, with ample discretionary power and a liberal grant of authority, to the administrative board in order that the legislative policy may be effectively and wisely carried out.

The task of meeting the requirements of justice and of fair dealing in reference to these difficult and intricate economic and social problems that now confront the American people, is hard

enough at the best without making it more difficult. If men are to solve those problems they must be given authority, ample authority. They must be freed from restrictions. They must be endowed with the power to exercise their judgment in close cases, because otherwise I fear the problem will not be solved at all. So that, in the interests of the efficiency of the commission, in the interests of the proper enforcement of the legislative rule, as well as in the interests of the legality of what is sought to be done, it seems to me highly desirable to adopt a simple rule, and then turn the whole matter over to an administrative board with a command that it enforce the law as the legislature has laid it down.

GOVERNOR CAREY—Who enters the decree or judgment in the case? Administrative boards?

GOVERNOR MCGOVERN—The administrative board.

GOVERNOR CAREY—Who pays the cost, assuming there is no appeal from that board?

GOVERNOR MCGOVERN—The state.

GOVERNOR CAREY—Now, the compensation, as I understand it, is to be derived from insurance companies.

GOVERNOR MCGOVERN—No. In Wisconsin the man, if financially responsible, may carry his own risk; or he may join a mutual insurance company. Our law authorizes the formation of such. Or he may insure in the old way. He may pursue any one of these courses.

GOVERNOR CAREY—So in the end there is no cost to the state except the simple cost of administration?

GOVERNOR MCGOVERN—That is all. And let me say this in connection with what Governor Walsh said about the percentage paid by employers which goes to the working man in Massachusetts: In Wisconsin practically every penny paid by the employers goes to the working man. The law is administered by the state. Attorneys are rarely employed by claimants; and as a result 98% of the cases I think are settled without any contest whatever, practically automatically.

GOVERNOR WALSH—You do not mean to tell us that the amount of money paid in premiums by your employers and manufacturers goes to the injured person?

GOVERNOR MCGOVERN—No.

GOVERNOR WALSH—As a matter of practice doesn't everybody insure?

GOVERNOR MCGOVERN—I cannot say as to that. I know some carry their own risks, some are in mutual companies, and others are insured. Just what the percentage is in each class I do not know.

GOVERNOR WALSH—I want to suggest this question to you: How can any Workingmen's Compensation Law be effective and successful if the state does not regulate and supervise the middleman between the employer and employe?

GOVERNOR MCGOVERN—I think it is highly desirable that the state should do so.

GOVERNOR WALSH—Is there any state in the Union doing that work?

GOVERNOR MCGOVERN—I do not know of any state that is doing it thoroughly.

GOVERNOR WALSH—If the state is seeking to give benefits to an injured working person with as little cost as possible to the employer, it ought to have control of the middleman and prevent his getting control of the profit.

GOVERNOR MCGOVERN—Either that, or have a system of industrial insurance which would exact from the employers a certain toll, depending upon the risk in the business and the number of employes, and then pay out of the state treasury the award for damages in every case.

GOVERNOR WALSH—And there is where we can do very effective work, because one state alone cannot see that we regulate and supervise the middleman, because these insurance companies are nation wide, and we all ought to unite on some course of action.

GOVERNOR DUNNE—Why do you call the insurance company the middleman?

GOVERNOR WALSH—The insurance company collects the money from the employer and pays it to the employe.

GOVERNOR BALDWIN—I would like to ask Governor McGovern if I understood him correctly to say in Wisconsin a man might carry his own risk at his own discretion?

GOVERNOR MCGOVERN—Yes; if he can make a showing to the commission of financial responsibility to pay any award that may be made against him.

GOVERNOR WALSH—Have you mutual companies, Governor?

GOVERNOR MCGOVERN—Yes.

GOVERNOR WALSH—And stock companies also?

GOVERNOR MCGOVERN—Yes.

GOVERNOR WALSH—How do you account for the difference in rates in Wisconsin and in Massachusetts? I have a table here of the Massachusetts rates and of the Wisconsin rates. There is a difference of 200% in most of the rates in the two states.

GOVERNOR MCGOVERN—Possibly Mr. Watrous, the secretary of the board, can explain that.

SECRETARY PAUL WATROUS (of Wisconsin Industrial Commission): In Wisconsin the commission issues exemptions to concerns which are able to carry their own insurance. Six hundred of these exemptions are in effect now. They are based upon the employer's statement of his assets and liabilities, which of course are verified by the Commission and upon the moral hazard, and the hazard of the industry. The commission has not fixed any definite standards, of course, but considers all those three aspects.

Now, as to competition. The mutual and the stock companies here control the field. In Massachusetts you have state insurance.

GOVERNOR WALSH—Stock state insurance company.

MR. WATROUS—Practically state insurance.

GOVERNOR WALSH—The state loaned some money to a group of men to start a company.

MR. WATROUS—So you have strong competition. The companies had to reduce the rates to meet that competition; that is the answer to your question.

GOVERNOR WALSH—So, unless there is competition or state regulation, the employer is bound to pay more.

MR. WATROUS—That is what it amounts to.

GOVERNOR AMMONS—How broad jurisdiction has your industrial commission? Does it extend to the settlement of disputes other than the ordinary industrial disputes between capital and labor?

GOVERNOR MCGOVERN—No. But it includes everything that affects the relations of capital and labor.

GOVERNOR AMMONS—But it does not go to the settlement of disputes?

GOVERNOR MCGOVERN—Yes. Arbitration, investigation of labor disputes, supervision of free employment bureaus, sanitary conditions, and conditions of safety in factories, the workmen's compensation law, truancy, regulation of street trades and everything pertaining to the relation of capital and labor.

GOVERNOR AMMONS—Who controls your commission?

GOVERNOR MCGOVERN—The governor appoints the members, subject to confirmation by the senate.

GOVERNOR AMMONS—We have an unfortunate condition in Colorado. The appointments are made by one of the other officers, who may be, and has proven to be, entirely in conflict with the head of the state government.

GOVERNOR MCGOVERN—I should not think that plan would work very well.

GOVERNOR AMMONS—It is one of the sources of our trouble.

GOVERNOR WALSH—(to Governor McGovern) : I was very much impressed, governor, with your suggestion of discretion in the enforcement of the general law. I think that is a solution of the problem.

GOVERNOR EBERHART—(to Governor McGovern) : Does your commission fix the amount of compensation?

GOVERNOR MCGOVERN—The law provides specific compensation for specific injuries and for death. The law also fixes a scale of compensation according to the period of disability.

(Governor-Elect Carlson took the Chair).

GOVERNOR-ELECT CARLSON—Now, in regard to the suggestion of Governor Eberhart, is there any desire on the part of this body to carry that out with a view to the appointment of a committee to work out the proposition of uniformity in regard to this law?

GOVERNOR DUNNE—Mr. Chairman, I think Governor Eberhart was pretty careful to suggest that this ought to be done by the individual governors and not as the result of a resolution in this body. We have up to the present time refrained from adopting any resolutions. His suggestion, as I understand it, is that those governors who are in accord with his ideas—I think his ideas and mine are in perfect accord—should make the call for an interstate conference of experts on this subject.

GOVERNOR CAREY—The western states are very anxious to get information on this subject. It is one of the most important, I

think. Now, New Jersey has a law which is not administered by a commission. There the law is administered by the Court of Common Pleas. Claims are filed in these courts and are decided by the judge without a jury. I hope the Conference will call upon Governor Fort to explain New Jersey's law.

GOVERNOR MCGOVERN—I think we should hear from Governor Fort.

FORMER GOVERNOR FORT—I have been so interested in the discussion on the part of the governors that I would rather listen than talk. We have a workmen's compensation act in New Jersey and it is working admirably. It is very simple. The statute states the amount of damages in each given case. No lawyer is necessary, although the proceedings are had in court. The laboring man prepares a petition—just fills out a form—to the Common Pleas judge. Thereupon the judge at once issues a citation, not even a summons, mere citation, just a notice from him to the employer, saying this allegation has been made and orders the employer to appear in court and answer it. He comes in, and if he admits it, the query is: What is the damage? The employe comes in, states his case, shows his injury. The statute says what amount shall go to him for the loss of a thumb, for the loss of a finger, for the loss of a foot; how many weeks he shall be paid for in each case, or how much the wife shall receive for so many weeks, or in a lump sum, whichever may be determined upon. The court may capitalize the thumb, award a lump sum, if he sees fit to do so. It is entirely within the discretion of the judge. In many cases it would be very unwise to award a lump sum because it would probably be squandered at once. For such a case the judge says: "No, I will give you \$6 a week, \$10 a week, for 300 weeks, 500 weeks," whatever the statute says. He simply makes his order.

Now, if the employer denies the accident occurred in the factory, that creates an issue. The judge merely presides in the most informal way, without any summons or pleading, to determine whether it occurred there and how it occurred. The man goes on the witness stand, that is, the employe, and the employer also. The judge says: "Did the accident happen in your factory?" If the answer is "Yes," the court assesses damages in accordance with the statute. If it did not occur in the factory

he will say to the petitioner: "You were not working at the time, were not in the line of your employment, therefore you cannot recover."

Our Supreme Court, within the last two weeks, has decided for the first time the constitutionality of that act. Our statute is not mandatory. It provides just exactly what Governor Dunne suggested this morning. That was, as I recall it, that if an employer wants to go under the act he can. But if, when a man comes to work in the factory, the employer says to him: "My factory is not under the Compensation Act. I give you notice now. If you are injured you must depend upon the common law rule to recover your damages." However, the law then says to the master, when he comes into court in a case of that kind, you cannot plead any of the common law defenses. You must stand without the defense of contributory negligence, without the defense of assumption of risk. These are matters of evidence, and as such are regulatable by the legislature.

GOVERNOR WALSH—What are you going to do if the injured employe is sick in bed for two months and cannot go into court, and needs the money?

FORMER GOVERNOR FORT—Somebody else can appear for him. He can send a letter to the judge, if necessary.

GOVERNOR WALSH—I do not see how you avoid delay.

FORMER GOVERNOR FORT—There is no delay. The judge is required by the statute to pass on claims within ten days.

GOVERNOR DUNNE—(to Former Governor Fort): Governor, I think the only difference between your state and ours is that in your state the judge enters the order and in our state it is entered by the commission.

FORMER GOVERNOR FORT—Every county judge hears the case in his own county.

GOVERNOR WALSH—In Boston the courts would be blocked for days with people with injury cases to be heard.

FORMER GOVERNOR FORT—New Jersey's experience has been the same as Wisconsin's, described by Governor McGovern. The law was adopted in our state under these circumstances: When I became governor, J. William Clark, who was the head of one of the largest cotton mills in the country, outside of New England, employed about 11,000 persons in Newark, and who also has a fac-



tory in England, came to me and said: "Have you ever studied the workmen's compensation act?" This was in the latter part of 1907, just after I had been elected. I said: "No, not seriously." He brought me a copy of the English compensation act. Mr. T. W. Roffing, one of the largest manufacturers in our state, employing about 10,000 persons, brought me a copy of the German statute. "Now," said Mr. Clark, "I want you to get a law through, if you can, because I know the difference between the United States, the New Jersey practice, and the English practice, and Scotland." He said: "Over there, I go to an insurance company at the beginning of the year, and I insure against the loss of so many hands, so many feet, so many fingers, so many eyes, or whatever it may be, and I pay so much money to the insurance company. Then I include these premiums as a part of my overhead charge, exactly as I do the interest on my capital, and if any accident happens during the year I simply let the insurance company pay the bill."

GOVERNOR DUNNE—Or fight it.

FORMER GOVERNOR FORT—Now, it did affect the insurance in our state very seriously when that law was passed in 1911, under Governor Wilson. I appointed a commission. I appointed Mr. Clark chairman of it. I appointed William Dixon, vice-president of the steel trust, because the trust had a system of their own, on that commission, and I appointed two leading laboring men, and the president of the Senate and the speaker of the House were on the commission. They reported the bill, those six men, as I went out of office. It took me three years to get a commission and to get the bill in and heard. It came in under Governor Wilson, now president, and the report of that commission was finally adopted by the legislature, with little, if any, party consideration of the question at all, and it has been working, and working admirably.

Now, what happened as to insurance? Immediately after the bill was passed the insurance rates (our law applies to domestic servants, all kinds of servants, everybody, and everything—I insure all my help in my mouse, chauffeur, and everybody that I employ to-day) were raised from 60% to 120%.

GOVERNOR EBERHART—The law does not apply to farming operations.

FORMER GOVERNOR FORT—I think so, but I am not sure. I rather think it was amended afterwards so it did not so apply. At least, an attempt was made, and I am not sure whether that amendment was put through or not. My practice does not run to this kind of business.

They raised these rates. The result was what? The amount of money paid for accidents in New Jersey was quite different from yours (Governor McGovern). The amount was very much more. Not because the accidents had increased under this system, because they very materially decreased. Every manufacturer in our state at once put on every safety appliance in order to reduce his insurance, and also to save his men from being injured, and the result has been that the first year under that statute there was a reduction of 40% in the losses recovered in the courts under the statute. In our state they get big verdicts too.

GOVERNOR WALSH—What was the reduction in insurance rates?

FORMER GOVERNOR FORT—None. There was an increase of from 60% to 120%.

Now, what happened was this: (to Governor Walsh) I heard your discussion of that this morning, and am entirely in sympathy with you, and agree with you. They thought they were going to be increased, undoubtedly the liability would be greater than ever before. They did not realize this act was going to have the effect of decreasing the amount of the insurance of the employer. For instance, instead of taking \$100,000 he would take \$50,000. Because by putting on safety appliances he was reducing his risk, reducing the number of accidents all the time, and the result in my state has been that they have now reduced the premiums quite materially from what they were the first year. But liability insurance companies made an enormous amount of money in the first year, there was an enormous increase of premiums, and a decrease in the lawsuits. It is hardly fair to criticize them for that, because no insurance man in the country knew how that law was going to work or what the effect was going to be, and I am sure these rates will decrease. They should be regulated.

Let me say, in our state it has been decided, and the Supreme Court of the United States has affirmed the decision, that the legislature may regulate fire insurance and indemnity insurance

rates. The Supreme Court of Appeals of our state, by a divided vote, in an opinion by Mr. Justice Garrison, one of our best judges, decided in the case of the City of Newark vs. Fire Insurance Company, that it was within the power of the legislature to fix and regulate rates. The case was taken to the Supreme Court of the United States, and I think Mr. Justice Holmes wrote an opinion only lately, indirectly affirming the decision of our court.

All of you who are lawyers here know that in Paul against Virginia—I think that is the case—it was held that life insurance was not a matter for Federal regulation. But now you can regulate life insurance rates, under this last decision, within the state. The nation has nothing to do with it. And they have now held that fire insurance matters may be regulated by the state. So you have it within your legislative power to regulate rates in the state if you think they are unreasonable.

GOVERNOR DUNNE—Isn't that the result of some affirmative legislation?

FORMER GOVERNOR FORT—No, sir. We took it up under the common law of New Jersey. My son was in the case.

GOVERNOR DUNNE—You had an anti-trust statute in the case, didn't you?

FORMER GOVERNOR FORT—No. Took it right up under the common law.

GOVERNOR MCGOVERN—Wasn't it the holding in Paul vs. Virginia that the writing of a life insurance policy is not a transaction of interstate commerce?

FORMER GOVERNOR FORT—Yes. And I do not suppose fire insurance would be the transaction of interstate commerce. Senator Dryden, the president of the Prudential Insurance Company, when in the Senate, endeavored to secure the passage of an act making insurance interstate commerce. I do not think there is the slightest doubt about the power of the United States to declare anything to be under the interstate commerce clause. Senator Dryden had opinions from some of the ablest lawyers in the United States on the question, which he used in the address he made in the Senate.

Governor Dunne has referred to that Federal question, as to whether there was any power to regulate these domestic matters. I suppose not. I very much question whether Congress could

make a business in the State of New Jersey a matter of Federal regulation. (To Governor Dunne): I think you are right.

This whole subject is one of very great importance. We ought not, however, strike at the insurance companies by fixing these rates arbitrarily. That would be a very great mistake, but I do think we should adopt laws as suggested by you (Governor Dunne) this morning, simply providing that if a rate be reasonable it can not be attacked, and if a man alleges he had been unreasonably treated, let him have a place to which he can go, a court, or a commission if you will—I prefer the court—to determine whether that rate is or is not reasonable. If the court says it is not reasonable, or the commission, let that settle it.

GOVERNOR O'NEAL—Do you agree with Governor Walsh as to the necessity and importance of state insurance?

FORMER GOVERNOR FORT—State insurance?

GOVERNOR O'NEAL—The formation of mutual companies, rather.

FORMER GOVERNOR FORT—After the insurance companies raised their rates in New Jersey, Governor Wilson, in a communication, threatened to call the legislature together to pass a law authorizing the organization of mutual companies unless the rates were reduced. The companies promised that if they found the statute worked well, they would reduce rates. I think only about 40%, however, not any where near as much as they were raised.

GOVERNOR O'NEAL—They are still higher than they were before the law was passed?

FORMER GOVERNOR FORT—Oh, my, yes. Still higher than they ever were.

But the law is working fine, and it is very simple. The great trouble now with us—I do not know how it is with the rest of you—is that we have too many commissions. We have what we call an efficiency and economy commission out now suggesting methods for reducing the commissions. We have the public utility commission and a tax commission, a railroad tax commission and a large number of commissions on all kinds of subjects. They are costing us a great deal of money, and the people are getting a little bit restless about commissions. There isn't any doubt about that. In the last five years we have been running

to commissions all over the country. Everything has been "commission." And I think we have got to face the fact, and consolidate these commissions and reduce the number, because a good many of them in my state do not have work enough, have half what they ought to do.

GOVERNOR-ELECT CARLSON—In case a party fails, who pays the costs in the court where the claim is filed?

FORMER GOVERNOR FORT—There are no costs. Our court has no costs, practically, in any case.

GOVERNOR-ELECT CARLSON—Are the costs paid by the state?

FORMER GOVERNOR FORT—The county pays the judges, and if a man wants a transcript of testimony I suppose he pays the stenographer for it himself. There are no other costs.

GOVERNOR O'NEAL—Has this law had the effect of increasing the number of courts?

FORMER GOVERNOR FORT—Not at all. We have a court of common pleas, a common pleas judge in every county except in Essex and Hudson counties, where we have two in each. Essex county is where Newark is located, and Jersey City is in Hudson county. When I was the common pleas judge in Essex county, from 1886 to 1900, I was the only judge and did the work all alone. They have now increased the number to two. They do all the work and do it easily.

GOVERNOR CAREY—There is not much work to do?

FORMER GOVERNOR FORT—No, I do not suppose there are five cases in fifty in which there is a trial. The employer comes up and says: "Yes, that man was injured while working at my machine, while in my employment." The judge says: "Very well, you pay so much." Then the employer sometimes says: "I would like to pay it all, I do not want to bother with this 'by-the-week' system." The judge hears him and decides whether he will order payment made in that manner or not, and decides it right off the bench, sometimes within ten minutes.

GOVERNOR WALSH—Governor Fort, I should say the distinction between New Jersey and the states which have commissions is this: That you have in New Jersey no representative of the government to see that the working men get what they are entitled to. They are left alone, to go to court and deal with the judge. These commissions are the advocates and attorneys for

the working people of the state and see that the law is carried out in their favor. I think that is the very great difference.

FORMER GOVERNOR FORT—I think, with my experience with the New Jersey judges, if a laboring man sent a communication to one he would see that he got a fair trial, without any commission or anybody else, or any lawyer.

GOVERNOR WALSH—If the decision is made against him, what can he do?

FORMER GOVERNOR FORT—He can appeal. Then he would probably get a lawyer because he could not handle it in the Supreme Court. But very few decisions are made against the employe, because very few men come in and ask for compensation if they are not entitled to it. The workmen are very honest in these things, and won't go in when they know they haven't a case.

GOVERNOR MCGOVERN—Isn't this so, Governor Fort? There are other differences, of course, in the adjustment of matters that pertain to the relation of capital and labor, but, so far as the administration of the workmen's compensation act is concerned, the difference in some respects at least, is largely nominal. Here and in Illinois and in Massachusetts the tribunal is called a "commission." In your state it is called a "court." But the method of procedure as to the presentation of claims, the simplicity of practice in hearings upon claims, seems to be the same.

FORMER GOVERNOR FORT—Oh, exactly. I suppose they are exactly the same. I was not criticizing commissions at all, except I just remarked what the public is talking about these days. They certainly are in New Jersey.

GOVERNOR MCGOVERN—They certainly are in Wisconsin also.

Of course, there are important differences between the two systems as to matters of procedure. The methods of courts will never be as simple, prompt or satisfactory as the action of an administrative commission. Legal technicalities and legal traditions stand in the way. Our industrial commission, for example, not only administers in a simple, inexpensive, expeditious and common-sense way the labor laws of the state, but it is also the friend and adviser of the working people in all things that pertain to their permanent welfare. In important disputes, it frequently represents the interests of labor. When, for exam-

ple, appeals are taken by an employer from decisions of the commission, it is not the injured laborer who has most at stake who defends the action, but the commission in his behalf; or rather the state acting through the commission defends the award that has been made. This is important for it discourages appeals and resort to the courts in labor disputes and prevents the laboring man from being subjected to the familiar "wearing out" process in which capital has so many advantages over him. If there must be litigation in actions of this sort, with us it costs the laborer nothing either in time or money. In New Jersey he defends the appeal, but without expense. There he must not only assert his rights in court in the first instance, but he must also defend them in every case where an appeal may be taken. This seems to me to be a very vital and far-reaching difference between the two methods of administration.

GOVERNOR DUNNE—There is this advantage in favor of the commission. The commission, in case of dispute, in our state, can designate a member, and each one of the litigants can also designate a person to represent them, and those three make the findings.

FORMER GOVERNOR FORT—I suppose the court could refer it to a master, if it wanted to.

GOVERNOR-ELECT CARLSON—Inasmuch as you claim you have the right to fix rates, and deem it advisable, why haven't you done so?

FORMER GOVERNOR FORT—It has only been finally decided that the legislature had that power within the present year, and there has been no legislative session since the decision was handed down. I do not believe, however, they will fix rates. There is a good deal of controversy over some insurance contracts which are said to be mutually advantageous to the companies in my state at this time.

GOVERNOR-ELECT CARLSON—What do you think about improvement in safety appliances—the commissions in different states working on those things all the time, aiding the different manufacturers?

FORMER GOVERNOR FORT—We have all of that under the labor department. Colonel Bryant is commissioner of labor and we have probably twenty labor inspectors, inspectors of factories.

so-called, and they look after the appliances, and if an appliance is not on the machinery, they can fine the master, or give notice to the master to put it on. That provision even applies to printing shops—everything. All of that is done under the labor department.

GOVERNOR-ELECT CARLSON—Any further discussion on this question, gentlemen? If not, the next will be a paper by Governor Stewart.

### “EXTRADITION”

GOVERNOR S. V. STEWART OF MONTANA.

Mr. Chairman and Gentlemen of the Conference:

When the request came to me to read a paper at this Conference on the subject of extradition, my first thought was to take the matter up and discuss it from a legal point of view. However, our good Secretary called my attention to the fact that the then Governor of South Carolina, Hon. Martin F. Ansel, delivered a very exhaustive address on extradition at the 1910 Conference, which address and the discussion of the different phases of extradition are to be found in the report of the proceedings of that Conference, pages 134 to 161, inclusive.

Governor Ansel gave a very careful compendium of the law upon the subject. I would not attempt to improve upon his presentation, but rather elect to refer the Governors to that paper as a most sound and complete treatise of the subject.

Every Governor knows and thoroughly appreciates the fact that the law on extradition is well settled, and yet I venture the assertion that extradition matters have in a very considerable degree plagued every man present. Article IV, Section 2, of the Constitution of the United States, which reads as follows: “A person charged in any state with treason, felony or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime,” seems simple enough on its face, and no less plain are the sections of the Federal statute drafted to



carry the constitutional provision into effect. Then why should the governor of a state, in actual practice, experience difficulty? No doubt every governor has his own answer to that question. My answer is that whatever the construction of the constitutional and statutory law on the subject, after all, the whole proposition comes down to the question of discretion on the part of the governor.

Only one case out of a hundred, and sometimes out of many hundreds, ever finds its way to the courts for construction. The Harry Thaw cases are rare, and, besides, in a case of that kind action is never precipitate and there is always plenty of time and opportunity for ample hearings and arguments by the representatives of the different sides of the case, and opportunity for careful consideration.

It would seem to me that the more notorious cases are less likely to involve a governor in error than are those of the humbler sort. The cases of the rank and file—the poor, humble citizens, if you please—are the more numerous and the ones wherein the ruling of the governor must of necessity be in the nature of the decision of a court of final resort in so far as it affects the question of the removal of the individual from one commonwealth to another. Therefore it is my purpose to discuss briefly with you some of the points that I have found confusing, and that my experience and observation lead me to believe most often confuse the governors in other states.

In the first place, the first step looking to the extradition of an individual is, of course, predicated upon a criminal prosecution. Section 5278 of the Revised Statutes of the United States states, among other things, that “the production of a copy of an indictment found or an affidavit made before a magistrate, charging the person demanded with the commission of crime, sets in motion the machinery of extradition.”

In some states there is confusion and uncertainty at the very beginning. I recall years ago, when I was a young county attorney, having prepared the papers in an extradition matter based upon an information pending in the district court. The governor refused to issue the papers, saying that the statute provided that there must be produced an indictment found or an affidavit. I thereupon had to “back up” and file a complaint

in the justice court and base my proceedings on that. It is possible that other states have a system of criminal procedure such as ours.

In Montana prosecutions in the district court may be by either information filed by the county attorneys or by indictment of a grand jury. The usual custom is for the county attorney to either cause a complaint to be filed in the justice court, hold a preliminary hearing and have the defendant held for trial in the district court, or "bound over" as it is usually called; or, if the county attorney does not care for the preliminary proceedings before the justice of the peace, to exercise his statutory authority to file an information direct in the district court, thereby never appearing in any court either by affidavit before a magistrate or by indictment, and thus, in the opinion of the executive who refused to issue the papers in my case, remaining without the purview of the statute that mentions indictments and affidavits.

Since my incumbency I have issued extradition papers upon information pending in the district court, the authority being derived from a construction of our statutes which makes the information equivalent to an indictment, and another section of the statutes which defines judges of the district court with other judicial officers or magistrates.

This phase of the investigation, however, is only important from a legal point of view. There is never much difficulty about enforcing legality in so far as concerns the case as presented by the papers upon which the request for the return of an alleged fugitive is based. County attorneys, generally speaking, know that their papers must be technically correct and must present a *prima facie* case. It is when that has been done that the governor then acts solely upon the judgment of the prosecuting officers of the county wherein the crime is alleged to have been committed.

Experience would seem to indicate that when trouble arises it comes from the fact that the governor is usually called upon in a hurry to issue his requisition upon the governor of another state. The prosecuting witness, county attorney and sheriff in some rural county get together, prepare a batch of papers, regular on their face, and the sheriff hurries to the capital, gets to

the governor as quickly as he can, demands the requisition papers at once and sits by while they are being prepared, eager to be on his way. The governor has no opportunity to do other than investigate the regularity of the papers. There is neither time nor means to enable him to conduct an investigation into the merits of the case. There may be a "job" on the part of the prosecuting officers, or there may be bias and prejudice, or there may exist sheer incompetency, any one of which conditions will render the action of the governor not only futile but in some instances absolutely wrong.

There is no way yet discovered whereby the governor can avoid these chances. In most instances the alleged fugitive is represented to be under arrest or likely to depart from the place wherein he has been located and from which it is sought to return him, and delay would be fatal. So the papers go forth, and when they come before the governor of a sister state, if the fugitive is fortunate enough to have sufficient notice and opportunity to gain a hearing, the governor of the sister state often ascertains after only slight investigation that the request for the return of the alleged fugitive is not well founded.

It goes without saying that every governor has a desire to act with courtesy and dispatch in all cases involving a request from another governor. There is manifest embarrassment on the part of any governor who finds himself confronted with a case that seems to demand a refusal. Some governors have adopted an ironclad rule to the effect that they will not consider any question involved in a matter of extradition other than the identity of the individual under arrest. While no doubt that rule serves to shut off much of the resistance and the resultant hearings involved therein, at the same time it is hard to believe that grave wrongs may not be done to liberty and personal rights by the enforcement of such a rule.

I notice in the discussion of the paper of Governor Ansel, to which I have referred, that Governor Hughes, then governor of New York, alluded to the fact that some states adopt the practice of paroling prisoners on the condition that they shall go to other states and thereafter for some reason or other attempt to have them returned. Governor Hughes took the position that the individual departing from a state under those conditions

was not a fugitive and refused to honor such a requisition. In one instance since I have been governor a requisition in due form was presented from the governor of another state. Before opportunity was given to honor the requisition a request for a hearing was made and granted. At the hearing it appeared to my satisfaction by affidavits that an information had been filed in the premises against the alleged fugitive some months prior thereto and that an agreement was reached with the county attorney whereby the defendant agreed to depart from and remain without the state. In pursuance of that agreement the defendant went to Montana and was residing there. In the meantime there was a change in the prosecutor's office and the new prosecutor decided to have the man returned. I refused the request upon the ground that the man was not a fugitive in the sense that he had fled from justice. When these facts were conveyed to the governor who made the requisition he fully coincided with my view of the case. It goes without saying that he had been forced to depend upon the regularity of the papers and the statement of the prosecuting officers, which was necessarily *ex parte*. In this case the enforcement of the rule that no hearing on a requisition should include anything other than the question of identity would have worked an absolute wrong.

And yet there are most substantial reasons to be urged against the system of allowing a hearing on the question of the justice of the demand to return the alleged fugitive. If a hearing on any question other than the question of identity is granted it must of necessity involve the production of evidence of acts that occurred oftentimes many hundreds and sometimes thousands of miles from the seat of hearing. Even on the question of flight there is only meager possibility of getting at the real facts in the ordinary case. The prisoner will, of course, deny that he fled, and it is possible that the agent of the governor who is present with the requisition may not have knowledge on that subject. Frequently a prisoner is found among friends who profess to have intimate knowledge of the facts and circumstances of the alleged flight. In that case, if a hearing is to be granted the prisoner will produce what seems to be overwhelming proof to controvert the charge that he is a fugitive from justice. Again, on the other hand, the fact may be that the prisoner did not flee

from justice but finds himself incapable of adducing any proof.

If any governor here present can tell me of a system that will work out under the law and result even generally in substantial justice, I will be glad to hear from him. My own idea is that the safest method of procedure is to rely upon the prosecuting officers at home and abroad, both in making and honoring requisitions. That rule is safe to follow generally, but not universally. The governor must in the nature of things occasionally have a case such as the one I have mentioned, wherein he can safely grant a hearing and act on his own judgment.

If there is one class of cases more than any other that presents opportunity for abuse of the extradition laws it is those involving difficulties between husband and wife. In a great many states, in fact in most of them, there are at this time statutes very stringent in their provisions covering matters of child and wife desertion. Every man looks with aversion upon an individual base enough to desert his family and leave them in want. Especially is this feeling of aversion prevalent in the normal human being when the deserter has left little children without means of subsistence. And yet out of this classes of cases, as I said before, there grow the most perplexing problems. When trouble comes between husband and wife each blames the other, and it is mighty difficult to determine who is in the wrong, especially when the fact must be determined by some governor far removed from the scene of the marital difficulty and differences.

Since I have been governor of Montana more refusals of requests for requisition have come from other governors in cases of this kind than in all other classes of cases, and more resistance has been presented in the matter of honoring requisitions from governors of other states than in all other cases. In some instances I have refused to grant the requisition. In one notable instance the papers were in due form charging the husband, who was then a resident of Montana, with having deserted his wife and two children in a sister state and left them without means of support. The husband employed an attorney and produced witnesses to substantiate his claim that the matrimonial differences were not all chargeable to him. It also appeared that the wife had remarried. The husband was a hard-working blacksmith, making good money, and expressed his willingness to con-

tribute to the support of his children. As a matter of compromise I proposed to him that he make payment of a stipulated sum each month for the support of his children, and to that end my private secretary was named as a trustee to whom should be paid the monthly allowance. Upon his assent to that arrangement the requisition was not honored and the man was allowed to remain at his trade. Since that time he has punctually remitted the stipulated sum for the support of the children. If the requisition had been granted, I have no doubt he would have been convicted of child desertion and probably placed in a position where he would have been unable to contribute in any wise to his children's support. He would at least have been arrested and put to unnecessary expense and would have lost his position and perhaps have been entirely alienated from the children.

However, aside from all other questions, if the governor is to make independent investigation of each case presented to him, he will have very little time for other duties, so that from the standpoint of time alone there is too often slight opportunity for suitable investigation even though the means might possibly be at hand.

My object in mentioning these things and in discussing matters of extradition is not at all to give a treatise of the law, but rather to treat of some of the difficulties, complications and embarrassments that confront a governor in the administration of the known law on the subject of extradition.

As has been remarked before in this paper, no governor likes to refuse the request of a brother governor. Especially is this true since the formation of the Governors' Conference; and yet I have found it easier to write and explain to a governor with whom I am personally acquainted my reasons for a certain action than would have been possible with a stranger. In every instance where I have been unable to honor a requisition I have written fully to the governor whose requisition I did not honor, setting forth very fully my reasons for the action taken, and it is a matter of some satisfaction to be able to say that the governors who made the requisitions have without exception acquiesced in the ultimate decision, as I have most cheerfully done in instances where my requisitions were not honored by other governors.

No doubt the sentiment expressed by Governor Ansel in his splendid paper has much to do with the usual prompt and courteous action of governors in matters of extradition. He says: "The very fact that there is no mode of enforcing the performance of the duty imposed upon the governor of the state upon which demand is made, by *mandamus* or otherwise, makes it all the more obligatory that he should be scrupulously exact and prompt in the performance of such duty, and the courts should not lend their aid to defeat the provisions of the Constitution so essential to the preservation of the good will which ought always to exist between sister states, by demanding more than is required by law."

It is not my purpose in this paper to enter freely into the discussion of the activity of the courts in some jurisdictions in matters of *habeas corpus* having to do with the extradition of fugitives from justice. It is a fact known of all men that some courts are very free in the use of writs of this character. Many a man who rightfully should be returned to the state wherein he has committed a crime has been snatched from the custody of the officer by a writ of *habeas corpus* and by some alleged legal proceedings that might more properly be denominated "hocus pocus" than *habeas corpus* given an opportunity to make what is termed in the parlance of the criminal his "getaway."

Of course, strictly speaking, that has nothing to do with the relations between the two governors involved in the extradition. At the same time there is no denying the fact that such a proceeding must of necessity embarrass the governor of the state wherein it takes place and naturally creates in the minds of the officers of the state seeking the return of the fugitive sentiments of suspicion, distrust and resentment.

If the matters which I have mentioned in this brief paper shall have the result of provoking a discussion of the everyday humdrum difficulties in matters of extradition, I shall be satisfied. If in addition to that result this paper and the discussion of extradition matters obtaining here tend in some measure to bring about an understanding between governors that will enable them to more efficiently and intelligently act one with the other in such cases, then will I feel that the result is doubly, in fact, abundantly gratifying.

GOVERNOR MCGOVERN—Mr. Chairman: Governor Stewart's paper is altogether too good to be passed by without some discussion. It has raised the question of the best practical method of performing the duties of the governor under the provision of the United States Constitution he has quoted. We had this matter up, I think, at our third last Conference, and the discussion of it then clarified my mind in reference to a method of procedure I have followed ever since, with satisfaction to myself, if to no one else. That method is this: to consider these three questions on every application for the return of an alleged fugitive from justice. First, is the man charged with an extraditable offense? This inquiry goes to the sufficiency of the pleading and the nature of the crime. Secondly, was he in the demanding state at the time charged in the indictment, information or complaint, as the case may be? Finally, is he now here? My practice has been this: if an affirmative answer can be made to these three questions the man should be returned, no matter, as a rule, what I might think of the equities of the case, or any thing else that pertains to it.

Let me illustrate what I mean. About a year ago a demand was made upon me for the return of a man to the State of Pennsylvania because of wife desertion or abandonment. The indictment was by a grand jury in Philadelphia, and was fair on its face. It was unquestionably a valid pleading. He came with his attorneys and his friends and proved conclusively that at the time charged he was not a resident of the State of Pennsylvania at all, but a resident of the city of Milwaukee, and his wife, the complainant, was then living with him harmoniously and amicably in that city. The second requirement, therefore, was not met; he was not in the demanding state at the time charged, and when that point was satisfactorily established the requisition was denied, and I sent to Governor Tener, whom I had the advantage and pleasure of knowing through these Conferences, a transcript of the testimony of all the witnesses, and my reasons for declining to grant the extradition. There were further proceedings in the case, but there was no further request for extradition on that ground.

It seems to me those three questions answer all of the requirements of our constitutional duty under the Federal Constitu-



tion, and they eliminate the consideration of the merits of the case, that is, the question of whether the man is guilty or not. It occurs to me that the issue of guilt or innocence is a matter for the trial court of the demanding state to determine, and not the governor of the state upon whom the demand is made.

GOVERNOR WALSH—What is your second proposition?

GOVERNOR MCGOVERN—Was the accused in the demanding state at the time charged in the pleadings?

GOVERNOR BALDWIN—In other words, can he establish an alibi?

GOVERNOR STEWART—That is identification.

GOVERNOR MCGOVERN—No; identification is covered by the inquiry, is he now here?

GOVERNOR BALDWIN—Does not that mean you are trying the question of alibi instead of the jury trying it?

GOVERNOR MCGOVERN—No. Take the case I just mentioned. The State of Pennsylvania demanded the return of this man for wife abandonment. It conclusively appeared that he was not in the State of Pennsylvania at the time charged in the indictment but was a legal resident of the State of Wisconsin, and therefore could not be guilty of the offense described.

GOVERNOR BALDWIN—Was the date alleged material?

GOVERNOR MCGOVERN—The date alleged was all we could go by, and the man was living in Wisconsin at that time and his wife was living with him. Therefore, while the allegations of the indictment, on its face, were sufficient, the fact was they were not true and he could not have committed the crime charged against him. In other words, the inquiry there is not: "Did he commit this crime?" but "Could he possibly have committed the crime charged against him?" If he was not there, of course, he could not.

GOVERNOR BALDWIN—The time is not material, and under that indictment they could have charged some other day and proved some other day. That was really trying the defense of alibi instead of throwing it back onto the court in Philadelphia.

GOVERNOR MCGOVERN—Suppose the other day was a day on which the statute of limitations had run?

GOVERNOR BALDWIN—That is another matter of inquiry.

GOVERNOR MCGOVERN—They should allege the right day. One should not, of course, be captious or technical, but if the accused

can show that for months before and after the date charged in the indictment he was not in the demanding state and therefore could not possibly have committed any crime whatever there, why should he be returned?

GOVERNOR BALDWIN—I have generally held, if the date was not material under the practice of the state, and he might have been there at some period when the state would have jurisdiction to punish him, although not the precise date alleged, that we could not try the question of alibi with the result of discharging him.

GOVERNOR MCGOVERN—I would not try the question of alibi or any other defense.

GOVERNOR DUNNE—I might agree Gov. McGovern has hit the three important and essential elements to be inquired into, but at times there are two other elements I think are important for a governor to go into. One of those is whether or not the prosecution is in good faith, or whether it is an attempt to collect a debt. I have frequently found a complaint has been sworn out before a justice of the peace, charging a man with embezzlement or larceny, with the sole and exclusive object of getting that man back from another state and force him to pay a debt.

I recall one case where it was sought to extradite a man from Texas, and when I inquired into the full facts of the case I discovered it was a squabble between the complainant and the defendant over payment for a bag of potatoes, and yet it was sought to bring that man back from Texas to pay a debt of not over \$2 or \$3.

There is one other matter too, and that is as to whether or not a man is, in fact, a fugitive from justice. I have lying on my desk in Springfield today an indictment that was found in the county of Cook six years ago against a man who has been living an honest life in California for the last three years. I have been informed that he has been living near Los Angeles for the last three years, an honest, upright life, and I am also informed—I have not inquired into the facts but I intend to—that after he was indicted in Cook county he repeatedly sought a trial, and that he was given no trial during the three years he continued to live in Cook county after his indictment; that he was assured by the state's attorney the case would never be tried—that state's

attorney is now dead—and that he left with his wife and children to make a new home in California, three years after his indictment. Now, under such circumstances as that, I believe it is the duty of a governor to find out whether, in fact, a man is a fugitive from justice, even where the papers are regular on their face. And I think it is also the duty, where there is an intimation that extradition is sought simply for the purpose of collecting a debt that inquiry should be made. Of course, I do not think any governor should take the trouble to notify the defendant. Where a hearing is asked for before me on the ground that a man is not a fugitive from justice, or where he seeks a hearing on the ground that it is not in good faith a criminal prosecution but an attempt to collect a debt, I take a good deal of care to go into those two questions and find out whether he is simply a debtor or whether he is a fugitive from justice, as the case may be.

GOVERNOR AMMONS—I followed the rules laid down by the Governors' Conference before I became a member of that body, almost in every instance, and I find they are very good rules. They cover the points that have been discussed here. But I do find some unusual case that is not covered by them, where it is necessary for the executive officer to go into the matter pretty fully in order to determine what should be done.

Here is one trouble I have found, in one or two cases, because of a failure on the part of governors to follow those rules. We had a defaulting officer in our state, guilty of embezzlement of many thousand dollars. We had record evidence against him, all that could be desired. We had everything against him that we cared for if we could have brought him back to trial. He got away from the state and it was some time before he could be located, a year or so. We found him down in the neighboring state of Arizona, and when we sent requisition papers for him he mustered a lot of friends down there and the governor proceeded to try and discover whether he was guilty or not, and refused to honor those papers, and we are perfectly helpless to bring that man back to trial. We wanted to make an example of public officials holding such positions, but we were unable to do it. And from that time, and that case came early in my administration, I have been very, very careful not to go into the questions that

can only be proven at the place where the crime is alleged to have been committed.

These other points are practically all covered by those rules, and have been very useful, indeed, to me; perhaps the most useful, so far as my administration is concerned, of any benefit I have gotten, in any direction.

GOVERNOR EBERHART—Mr. Chairman and Gentlemen: I have experienced the same things that the other governors have complained of, and I have found, in most instances, the defense made is that the complaint was not made in good faith, and I think there is one way of avoiding a great deal of that by proper care on the part of the governor who demands the extradition.

In my state we draw up blanks, under the direction of the attorney general, with the instructions agreed upon by the Interstate Convention of Governors, and we print, in addition to that, suggestions to county attorneys. And I require all the extradition papers to be examined and approved by the attorney general, require two affidavits, except in cases where indictments are obtained; one affidavit describing in detail the facts in connection with the crime, and the other an affidavit that the action is brought in good faith. Then I require a copy of the law under which the indictment is brought, and a certificate from the secretary of state that the law is in existence.

These are simple matters every governor should guard against, and make it easier for the governor to issue extradition papers.

I found one instance where the county attorney was interested in the collection of a debt, had collected quite a large sum, and had the balance to collect. The party was residing in my state and was doing very well and could pay the debt. The county attorney had sent a telegram authorizing the dropping of the proceedings, if the party would pay the money. Those are extreme cases, and I do not recognize the defense of bad faith unless they connect up the prosecuting attorneys some way with it, and I think if those interested would examine these blanks and the instructions to prosecuting attorneys, we could guard in many instances against imposition upon county attorneys. They do often impose upon them, and impose upon the governor. I would be very glad to send a copy of our blanks to anyone who desires to look them over.

GOVERNOR O'NEAL—I would be glad to have a copy.

GOVERNOR EBERHART—We have never denied extradition on the ground of improper papers.

GOVERNOR O'NEAL—Is that a copy of your blank?

GOVERNOR EBERHART—I have two or three complete sets here. I find about one-fourth or one-fifth of the papers that come to me are insufficient under the rules adopted by the Conference of Governors. These blanks, with copies of instructions to the prosecuting attorneys, and the approval by the attorney general in our state, have avoided a large number of applications for extradition that have never been issued, because of the ability of the attorney general to obtain this information and furnish it to the governor asking for the information.

GOVERNOR BYRNE—When you refer to “the rules of the Governors' Conference” you do not refer to any rules of this Conference?

GOVERNOR EBERHART—No. The Interstate Conference, which adopted the original rules.

GOVERNOR-ELECT CARLSON—(to Governor Stewart): What do you do in case a man breaks a parole from the state penitentiary?

GOVERNOR STEWART—I never have refused to grant a requisition for a man charged with having broken a parole, from some other state. I always grant it if the identity is all right. Of course, I would not under the circumstances described by Governor Hughes. If the man was paroled on condition that he should leave the state, then he is not a fugitive from justice. But occasionally a man will be paroled in a given state and he will escape from that state. That is just as much an escape and he is just as much a fugitive as if he escaped from within the walls of the prison.

I think the suggestion of Governor Eberhart that the attorney general be called upon to examine the papers is a good one. We have, I think, the same set of papers Governor Eberhart has. He and Governor Norris, my predecessor, corresponded on this matter.

My custom has been, when a county attorney comes in with a set of papers, my secretary directs him to the attorney general's office, and the attorney general examines them and puts his O. K.

on them. He marks them "O. K." as to form, and signs his initials. If I do not find that on the papers I do not even look them over. When a sheriff comes in from without the state with a set of papers from another governor, I follow the same rule exactly. They are taken by my secretary into the office of the attorney general; he examines them as to form, to see whether or not they are sufficient upon their face, and puts his O. K. on them, and I take up the question of whether or not the man should be extradited.

But there are cases, just as Governor Dunne says, wherein grave wrongs would be done if we followed the strict rule laid down by Governor McGovern. I realize his rule is the right rule, but all rules have exceptions. I recall a case—I presume Governor Dunne will recall it—where a requisition came from his state. It all grew out of a monetary transaction, and the man, before the requisition arrived, had employed an attorney and applied for a hearing. The requisition was granted upon a complaint filed in the justice court, and, in the state of Illinois, as I understand it, they prosecute in the superior court by indictment. After listening to the statement of this man, and to the facts and circumstances surrounding him, I came to the conclusion that perhaps this was an attempt to collect a debt, so I simply held the matter up and wrote to Governor Dunne and suggested if this was a transaction in good faith it would ultimately have to go before the grand jury of his state anyhow. I had assurances the man would not leave—he was a homesteader, and therefore would remain there, he lived with his family and had been back and forth to Illinois for two or three years. So I suggested he let his grand jury proceed and indict him. I wrote the district attorney also to that effect. After the district attorney investigated the matter he abandoned the case and never had the grand jury indict. If I had granted that requisition and let the man go back it would have been wrong.

GOVERNOR DUNNE—It cost him \$300 or \$400.

GOVERNOR STEWART—He lives on a homestead, on a farm out eight or ten miles, and his family would be left on that homestead all alone. I saw him not very long ago, and he is a very substantial citizen.

Another case came up from North Dakota. A young man who resided in Montana was indicted—I do not know whether it was an indictment or not—I rather think that was a justice court complaint. He was charged with horse-stealing in one county in North Dakota. He had lived three years in the state of Montana, had a homestead, and had a good crop, and it was about threshing time this fall when they came out with a requisition for him. He heard they were coming and as soon as they came he induced the sheriff, whom he knew very well, to let him have a hearing, and the sheriff brought him to Helena, the capital, and I had a hearing there. His brother is a physician who had been in the state for some years, and the whole family seemed to be prominent and well to do people, and I was satisfied he was not going to leave the country, and his brother said to me: "I will put up any kind of a cash bond. This boy ought to be out looking after his crop. He has a good crop, and they won't have a term of court down in North Dakota for three or four months, and I will put up any kind of cash bond you say to guarantee that this boy goes back to North Dakota." After a considerable amount of discussion he put up in my hands \$2,500 in cash to guarantee that the boy would go back to North Dakota any time he was wanted, and I released him. I saw him the other day, and he is preparing to go back and submit to the process of the court. This was irregular—there is no question about it—but at the same time I am fully convinced the ends of justice will be met by his going there and appearing and subjecting himself to the process of that court.

Those things are exceptions, and of course if a man is awful busy, crowded with work, if the legislature is in session or there is other work demanding his attention, and he cannot take the time to look into them, he must simply adopt the rule Governor McGovern has laid down, as most governors lay down, and let it go as it looks, as he is doing.

GOVERNOR MCGOVERN—Mr. Chairman, I want to say I agree with Governor Stewart and Governor Dunne, and others, who say there are exceptions to every rule; and, while Governor Stewart was talking, I recalled a case which will illustrate the principle. It was so novel I think you will be interested in hearing it.

A man in the northern part of Wisconsin was charged in Illinois with a felony and a demand was made for his return. As soon as knowledge of the issuance of the requisition reached his friends they applied to the county court to have him committed to an insane asylum on the ground of mental incompetency. The county judge brought him in, appointed two physicians to examine him and sent him to an asylum.

The papers were then presented to me and his attorney appeared and said: "This man is in an insane asylum and is in no condition mentally to be tried." In this case the indictment was undoubtedly valid. It was undisputed that he was in Illinois at the time charged in the pleading. It was clear also that he was here at the time the demand was made. But the question remained: Will you return a man to another state for trial on a criminal charge who is in such mental condition that a court, after full investigation, may say that he is unable to defend himself? What we did was to keep him in the asylum until the physicians who have him in charge may be able to say what should be done with him.

GOVERNOR DUNNE—I want to thank you, Governor, for keeping him here, not sending him back to Illinois so we will have to take care of him.

GOVERNOR MCGOVERN—Oh, do not imagine you have escaped. We shall send him back, in due time, for care in Illinois.

GOVERNOR BALDWIN—Mr. Chairman, I would be glad to inquire of the governors here if any, in his practice, has ever found that a requisition that he honored had been abused, that the requisition had been used to collect a debt on the return of the fugitive to the jurisdiction of the governor who demanded his delivery. I never have had such an instance, myself, and I would be glad to know if other governors have.

GOVERNOR DUNNE—No, I cannot recall any case. This matter of potatoes, of the requisition from Texas, was when I was on the bench as judge some years ago, and it developed, beyond any possible question, it was a dispute about a couple of bags of potatoes, and they wanted him brought back from Texas.

GOVERNOR BALDWIN—That was on *habeas corpus*?

GOVERNOR DUNNE—On *habeas corpus*, yes.



GOVERNOR CAREY—Mr. Chairman: I think it would be very dangerous for all of us living out in the Far West if the policy, announced by Governor Stewart in a late case, was pursued in requisition cases. There are a number of horse thieves that live right up on the border of Wyoming and Montana, and there should not be very much cavil about the issuance of extradition. If there was, we would have a great deal more trouble than we now have. I think the governor should act largely on the action of the governor who issues the requisition. It is a very dangerous thing to think that he has not used good judgment in issuing the requisition in the first instance.

Governor Dunne will recall issuing a requisition for a man in my state a short time ago. The man appeared, wore fine clothes, was well groomed, with a woman who said she was his wife. He was a clairvoyant who had gotten thousands of dollars out of widows and others in Chicago, where he had practiced. He carried attorneys for several hundred miles. They claimed the greatest wrong was being done in the world. He had a hearing before the district court on *habeas corpus*, and when they were all through they told me their story. They were living on a homestead. Well, I knew a man could not very well afford to live the way he was living, if he had only a homestead, unless there was something going on somewhere else. His clothes were too good, his manner of living was too good, and he was on a homestead worth about \$500 all told. He had been using that homestead for several years, but it was simply a blind, simply a hiding place between times, when he was not carrying on his practice of high science in Chicago, and usually with the Chicago widows. And in the end I acted very largely on the judgment of Governor Dunne, who had issued that requisition, and the papers that accompanied it, and on the representation of the officer who bore the requisition. I think it is a pretty safe way to do in reference to these men who move between the states, to rely largely upon the honesty of the investigation of the governor with whom the requisition originates.

GOVERNOR DUNNE—Governor, don't rely too much on that in a state from which many requisitions go. When the papers by which we ask from you and other governors the return of a fugitive from justice come to my office and are regular, I do

nothing but pass upon the regularity of the papers, and I sign them. I do not inquire into the circumstances of the commission of the crime. Indeed, very frequently I do not see the officer that brings in the papers. I refer the papers to the attorney general, get his views as to whether they are regular on their face, and make no inquiry whatever into the circumstances. So, if you are relying on my discretion in the future, remember it is possible I do not know anything about it except to look at the papers and see that they are regular.

GOVERNOR-ELECT CARLSON—Some of the governors have suggested that the heads of some of the departments appear tomorrow and state to the governors the law under which they are acting and the functions of the several departments, and what they are doing, particularly the Railroad Commission and two or three others, commissions we have not had an opportunity to investigate. Now, what is the desire of the governors in regard to this matter?

GOVERNOR DUNNE—If it does not interfere with the regular order.

GOVERNOR-ELECT CARLSON—There is but one paper left upon the program, as I understand.

GOVERNOR DUNNE—I suggest, then, Mr. Chairman, we finish the reading of the papers on the program and after that we hear from the heads of the different departments in the state.

GOVERNOR-ELECT CARLSON—The reason that was brought up this evening was because we have to give notice to the heads of those departments this evening in case we desire to hear them.

GOVERNOR DUNNE—Before we adjourn, Mr. Chairman, I would like to make a suggestion to the governors of the states that border upon the Mississippi and its tributaries. Governor Major of Missouri, Governor Eberhart of Minnesota and myself as Governor of Illinois, were invited to a conference some months ago at St. Louis and were appointed by that conference a committee to devise a scheme for the calling of a convention of those interested in the waterways of the Mississippi and its tributaries, some time this fall. Governor Eberhart and myself have been in correspondence in relation to the matter, and we have reached the conclusion—I think Governor Eberhart will bear me out—

that the most appropriate time for the calling of that convention would be the end of this month, or the beginning of December, at St. Louis, and that the representation to the convention ought to be based upon one delegate from each congressional district of the states bordering upon the Mississippi and its tributaries, and five delegates at large from each state, and one delegate for every 25,000 population in each of the cities located upon the waterways mentioned.

There are, I think, six governors at this Conference who are governors of states bordering upon the Mississippi. I would like to ask if those gentlemen have any objection to the date or the manner of framing the call for the convention. Governor Eberhart is to leave at five o'clock this evening, and we would like to get the information.

GOVERNOR HALL—The date is satisfactory to me.

GOVERNOR DUNNE—The date and the time?

GOVERNOR HALL—About the first of December.

GOVERNOR DUNNE—What other governors?

Would that satisfy you, Governor McGovern?

GOVERNOR MCGOVERN—That will satisfy me all right.

GOVERNOR O'NEAL—Mr. Chairman, I move, then, after the conclusion of the regular order, the reading of the papers tomorrow, that the heads of the various departments be requested to address us briefly on the subjects of their different departments.

(Motion seconded and unanimously carried).

GOVERNOR DUNNE—And I would like, if you possibly could, to get the head of the Legislative Reference Bureau.

GOVERNOR-ELECT CARLSON—That department is one that has been especially requested.

GOVERNOR DUNNE—And the Insurance Department.

GOVERNOR BYRNE—The one paper that is left is mine, and I want to say that I won't be here tomorrow forenoon. If you want me, I will read it now, or tomorrow afternoon.

GOVERNOR DUNNE—How long would it take?

GOVERNOR BYRNE—It will not take long.

GOVERNOR AMMONS—Mr. Chairman, I move we hear that paper now.

(Motion seconded and unanimously carried).

GOVERNOR-ELECT CARLSON—All right, we will proceed now. The next on the program, gentlemen, is a paper by Governor Byrne of South Dakota: "Submission of the Governors' Recommendations in Bill Form."

## SUBMISSION OF THE GOVERNOR'S RECOMMENDATIONS IN BILL FORM

GOVERNOR F. M. BYRNE OF SOUTH DAKOTA.

We are apt to think of the three branches of government in our system—legislative, executive and judicial—as being entirely separate, distinct and independent of each other. They are regularly referred to, and generally thought of by the people, as being so, while in point of fact they are not. The legislative and executive departments are peculiarly interdependent and the duties, rights and privileges of each overlap in varying degrees. The authority to create administrative offices and boards and to designate the method of selecting such, the usual right of confirmation or rejection of appointments, are examples of legislative participation in executive and administrative functions. Under the constitutions of the different states, the governor, by reason of the veto power and the right and duty to recommend legislation, is a part of the law making machinery; he is, indeed, a part of the legislature. In every state, with one or two exceptions, he has the power of veto, requiring in every instance as much as a majority, and in most a two-thirds, vote to overcome his veto. Thus in a majority of the states his objection to a proposed measure is equivalent to a two-thirds vote of the legislature. In every state, I believe, the governor is given the right to recommend to the legislature such measures as he deems necessary or expedient, and in most, if not all, this is not only a right but is made a duty by the provisions of the constitution. In my own state the language is:

"He shall \* \* \* communicate to the legislature by message, information on the condition of the state, and *shall* recommend such measures as he shall deem expedient."

Thus to make such recommendation is not a privilege or right, merely, but a solemn duty. It is not unreasonable to construe

these words as meaning that he shall make his recommendations in the most direct and effective fashion, or, at least, in definite and explicit form, so that there may be no question as to his exact meaning; and in the interest of effective accomplishment, he should be willing to assume responsibility in the most definite way. Why should not the governor, in matters he deems of great importance, or in support of a measure he believes the people desire enacted into law, and, perchance, because of the advocacy of which he was chosen executive of his state, accompany his recommendation with a draft of a bill, or submit his recommendation in the form of a bill, for which he is willing to assume responsibility, that there may be no misunderstanding or equivocation as to his exact meaning and no question as to where the responsibility for the success or failure of the measure should rest?

A mere statement in behalf of a policy or principle, or the advocacy of a measure in language however definite and clear, may still leave room for doubt, assumed or real, as to just what is recommended, give opportunity for evasion and make difficult or impossible, the accurate fixing of responsibility.

How often we see a measure advocated in party platforms, made the issue on which the party carries the election, urgently recommended by the governor and apparently earnestly desired by a great majority of the people, and yet the legislature comes and goes without such measure being enacted into law, and we see no way to definitely place the blame. It may happen that no one offers a bill to definitely cover the measure, or a bill may be offered so drawn as to cunningly defeat the very purpose of the recommendation, or, mayhap, different bills may be introduced on the subject, and there being no one to determine which best meets the requirement, nothing is accomplished, even when all act in good faith; or different bills may be introduced, apparently similar in character, for the specific purpose of creating confusion and preventing action, and in every such case the public finds it difficult or impossible to locate the culprit or call any one to account. By the simple expedient of himself presenting a bill embodying his recommendations, the governor, if he has the courage and disposition, can assume full responsibility for the merit of the measure he recommends and the form in which he

would have it enacted into law, and at the same time bring both support and opposition into public view.

Of course recommendations of the governor, whether presented in the form of bills or otherwise, will always be treated as the houses of the legislature see fit. He has, under our system, no legal authority to enforce any reform or to coerce the legislature into doing his bidding. He can only use such authority as his personal influence and character may give him. The only pressure he can bring to bear is through the influence of public opinion. As he can affect legislative action only through his influence with the people, his only weapon is the power of public opinion. No one should object to this. No one should complain of candid advocacy of, or open opposition to, clearly defined measures. Every public servant should be ready to make his attitude known, and cheerfully assume responsibility therefor. The time has come to bring legislation into the open, from behind closed doors and out of secret committee rooms, to give the people opportunity to see the process of law making and judge of the motives that prompt action for or against measures and policies, and to subject the proceedings to the white light of debate and public discussion. In the final analysis the public must determine the character of our laws.

The governor alone represents the whole people and to him alone can all the people look for responsible leadership. They can look to no other one person. There is no one member of the legislature and no one connected with legislation except the governor who represents the entire state—every one else represents localities.

The exact method of procedure is not important so long as the matter is presented in definite, tangible form. The governor may present his bill direct to the legislature, with the recommendation that it be enacted into law, leaving it to the members to act as they see fit on the recommendation thus definitely made; or he can secure its introduction by a friendly member with the definite and frank understanding that it comes from the executive and is intended to give life and form to his recommendation, and in either instance every one connected with the transaction can be held, by the public, to strict accountability for his action for or against.

There can be no question as to his right or legal power. The constitution not only gives him the right but imposes on him the duty of recommending measures to the legislature and this would simply be recommending in an efficient manner, and in definite, clear, understandable form. Through this method responsible legislation may be secured or, at least, proposed, while at the same time opportunity is given for intelligent and effective criticism of proponent and opponent alike.

I do not advocate this as a means of adding to or extending the power or authority of the executive, but of making his leadership effective, and, at the same time, fixing, with accuracy, his responsibility, and making it possible to hold him to strictest account to the people of the state. The real increase of power would be to the people by making it easier for them to effectively and intelligently support or oppose measures.

Nor is it proposed that the executive shall invade or intrude upon the rights or prerogatives of the legislature. Nothing is proposed that is not now the duty of the executive. It is only proposed to put recommendations in definite and understandable form, that credit or blame may be meted out to him as, in the judgment of the public, he may deserve, while at the same time responsibility may be definitely fixed for legislative action or non-action. Under the usual method, the governor is often held responsible and blamed for the failure of measures which he may have earnestly urged on the legislature, while on the other hand, a member of the legislature may be blamed for failure to support a popular executive proposal when in fact it did not come with understandable clearness and precision, and there was honest difference of opinion as to which of several bills presented really embodied the governor's recommendation.

Neither would such bills be presented by a wise and discriminating executive as the last word, or on the theory that it embodied the sum total of all wisdom, on the matter in question; rather, he would invite the most thorough investigation, consideration and discussion, and acquiesce in such modification or amendment as wisdom would suggest as the discussion proceeded, or in rejection if it was finally so decided. The people would have opportunity to judge intelligently between the gov-

ernor and those who opposed his recommendations thus definitely and clearly presented.

It is not my idea that the governor should in this way cover the entire field of legislation, nor interfere with or limit in any sense the initiative of members of the legislature. I have reference only to such measures as he may deem of unusual importance, or as may have been made an issue in the campaign at which he secured his election, and which he considers himself under promise to promote.

In fact, I here propose no fundamental change in the relation of the executive to the legislature; such change as I suggest goes only to method and procedure. All governors regularly recommend, with more or less definiteness, measures for legislative action. The suggestion is simply that important recommendations be embodied in the form of bills so that there can be no misunderstanding, or pretence of misunderstanding, of what such recommendations really contemplate or have in view, and so that both the governor and members of the legislature can be held accountable for their action thereon.

There has come to be much complaint over the inefficiency and nonresponsiveness of our legislatures. The people suspect that in many instances sinister influences direct legislation; that special and selfish interests, proceeding by devious and secret ways, shape enactments against the public weal. Certain it is that desirable measures are often defeated, or jokers inserted in laws altering or reversing the intended effect, under circumstances making it difficult or impossible to fix the responsibility. This often could be avoided by having a proposal definitely fixed in the form of a bill presented with the responsible recommendation of the executive, the support or opposition to which could, by the people, be made the basis of either credit or criticism.

In my own experience I have found this method of presenting recommendations effective, though I have used it sparingly. The last legislature of South Dakota passed a law providing for a state tax commission. When the bill was introduced it was known that it clearly and definitely represented my views. It was vigorously opposed, but every one who opposed it was obliged to take an open stand against a definite proposition. The result was that the bill passed by a substantial majority of the



legislature, and while it has been vigorously assailed and made an issue in two campaigns, it has been endorsed and fully sustained by the people, demonstrating the fact that there was a real, substantial demand for it. Yet had it not been presented definitely in the form of a bill, avowedly recommended and urged by the governor, it, by one subterfuge or another, would have been defeated.

Upon another matter which I believed to be of vital importance to the people of the state, and which, I am sure, a large majority of the people favored, I strongly urged action, sending in a special message recommending the passage of a law, but presented no bill embodying definitely my views. There was no open opposition to the general proposal but so many plans were advanced and the members were so balanced and divided in support of the many bills introduced on the subject that no action was secured, though few, if any, would admit their opposition. In this case, in the latter days of the session, it was openly said by opposition leaders that the legislature would be glad to follow the governor's recommendation to enact "a well considered, effective law" on the subject, but the trouble was to determine just what constituted such a law. In the future, when I recommend important measures in which I personally have full confidence, or upon which I believe public sentiment to be settled, or which has been made a successful issue at an election, I shall take care to see that no honest doubt can be expressed as to just what the governor believes in and is ready to stand sponsor for.

While this method of submitting recommendations has not generally been followed by our executives, it is not entirely without precedent. At different times presidents have accompanied their recommendations to Congress by drafts of bills embodying in definite form the subject matter recommended, and in a limited way, at least, it has at times been resorted to by governors.

By presenting to the legislature his recommendations on important public questions in definite and specific form by means of carefully drawn bills, the governor may do much to bring legislative proceedings into the open, where the people may see clearly what is going on and pass intelligent judgment upon the action on each and every man in any way connected with the process of making laws. He may thus materially help to make

each man's attitude on any given question clear and unmistakable, and enable the people, in some measure at least, to secure the enactment into law of their determined plans and purposes.

GOVERNOR DUNNE—I think the paper is admirable. I followed the suggestions in the paper the only time I had a legislature on hand. Shortly after my inaugural message I prepared bills on every topic contained in the inaugural message and handed them to my friends in the House and Senate.

GOVERNOR BYRNE—Mr. Chairman, then Governor Dunne followed my advice before I gave it. I have always thought Governor Dunne was a very wise executive, and here is positive proof.

GOVERNOR O'NEAL—I move this paper will be open for discussion tomorrow.

GOVERNOR AMMONS—Yes, I want that kept open. I second the motion.

(The motion was unanimously carried)

## UNIFORMITY OF LAWS RELATING TO FOREIGN CORPORATIONS

GOVERNOR CHARLES R. MILLER OF DELAWARE.

The term "Foreign Corporation" should be defined in opening a discussion on the uniformity of laws governing this class of corporations. In a few words a foreign corporation may be said to be "a corporation organized outside of the limits of the state in question." The uniformity of laws throughout the United States, with respect to foreign corporations, is well chosen as a subject for consideration by the governors of the several states here assembled. There is a wide variance in the laws of these states in the statutes affecting corporations of this designation.

A rule of law well-established is that each state has the sovereign power to enact laws regulating the business of foreign corporations within its borders. The rule goes still further, in view of certain court decisions, and a state not only has the right to pass laws and prescribe regulations for foreign corporations but may exclude them altogether.

In view of the great power held by our commonwealths it is the natural consequence that many good and beneficial enterprises are hampered, if I may say unjustly, while at the same time many

bad corporations receive their just dues through the operation of the law.

In going over the corporation laws of the various states concerning foreign corporations, one is struck by the extreme latitude in which the legislative pendulum has swung. I will not give the names of the states but the laws may be characterized in the following classes:

1. Those states whose requirements are so mild and harmless that no apparent benefit is derived from the law and which are merely the means of providing information concerning the corporations which is no hardship to the corporations to supply and not of much use when it is given.

2. Those states, the requirements of which are regulatory and the information supplied is of some benefit to the people who may desire to ascertain the same.

3. And lastly those whose requirements are drastic and almost prohibitive to doing business.

In the first two cases the tax required is almost nominal and the filing fees reasonable. In the case last mentioned it is generally the rule that the initial tax is high and in keeping with the law's requirements which make the entrance into a state as I have indicated.

The first object of a foreign corporation law is to protect the citizens of the state from the unlawful or dishonest companies, and the amount of license or tax received by the state is a secondary matter. If foreign corporation laws did not exist, dishonest organizations from other states would creep in and usurp the corporate privileges of our domestic corporations and filch our citizens. The citizens of a state look to the state in order to ascertain such important points as the nature and character of the company, the amount of the capital stock and if it is paid up, the liability of the stockholders and any other legal points that they may desire to know.

The following facts are noteworthy and should be considered in dealing with this subject:

Eighteen states require no annual franchise tax or license.

Sixteen states base their taxation on the actual amount of capital invested within the state although they do not use the same methods in computing this amount.

Ten states demand no annual report.

Eight states require the initial fees and the annual franchise tax to be levied on the same basis as if the corporation was a domestic corporation.

Five states name the secretary of state as the agent for process.

Three states require no initial tax.

Three states grant extra interrogatory powers to the secretary of state before requiring him to file the certificate.

Four states require an agent to be designated in each county.

One state requires a county tax of one-half the amount already paid to the state.

Some states revoke a license if a suit is taken to a federal court and in one state the prosecution for the violation must be started by the state.

Every state requires the filing of a copy of the certificate of incorporation with the secretary of state or the corporation commission, and the next most numerous provision is the designation of a resident agent in the state, upon whom process may be served.

Foreign corporations may generally be divided into several classes, as follows:

First.—A domestic corporation of one state formed by the citizens of that state which establishes offices outside the state of incorporation:

Second.—Where the citizens of one state go into another state for the purpose of organizing a corporation under favorable statutes without the intention of carrying on any business, but of bringing the corporation back into the state of residence of the incorporators;

Third.—Where the citizens of one state form a corporation under the laws of their own state for the transaction of business exclusively within another state;

Fourth.—Where the citizens of one state go into another state and organize a company for the purpose of transacting business in a third state.

The state of Delaware is particularly interested in the last two classes because in many cases Delaware companies are organized for the purpose of exclusively transacting business outside of the state of Delaware.

It is the purpose of the discussion, which we are opening today to suggest a general enactment of law upon which the several states can mutually agree on the treatment of the corporations fostered by one and the other. The jurisdiction of one state is foreign to that of another and therefore a corporation created by one state is regarded as foreign when operating within the limits of the other. The relations between the states in this connection is dependent on the rule of comity and in Murfree on Foreign Corporations we find that comity is a matter of grace rather than of right. We should therefore not lose sight of the fact that certain conditions existing in one state and not existing in the other may explain the difference accorded the corporations of one state by another.

The key note in the consideration of a uniform foreign corporation law should be encouragement to honest business without placing embarrassing conditions upon the formation of corporations organized for the carrying on of business. A bad corporation is the one that will object to a law no matter how fair it may be, and an honest corporation can be regulated by means of local state laws and by the police powers of a state over its own domestic corporations. Every possible encouragement should be offered to manufacturing corporations, with the purpose of locating as a foreign corporation in the state to conduct and carry on its business there. It should not be embarrassed by unreasonable regulations or subject to different suits, such as foreign attachment, and from which a domestic corporation is free. A manufacturing corporation should pay the lowest possible franchise tax and should escape with the lightest taxation. A foreign corporation of this character brings capital into the state in the erection of its plants and it also confers a benefit upon the community where it locates by giving employment to labor in the vicinity. This spirit of encouragement has been recognized in a New Hampshire statute, an extract from which reads as follows:—"Manufacturing corporations not established by the laws of this state doing business in the state are authorized and empowered to acquire, hold and convey real and personal property, and shall conform to the laws of the state as to returns and taxation the same as domestic corporations." The wording of an extract from a Tennessee law serves to show that a common-

wealth is not necessarily cold to the corporation of which it is not the parent:—"it being the chief object of this act to secure the opening and development of the mineral resources of the state and to facilitate the introduction of foreign capital."

In contrast to the thought advanced in the last paragraph, there are cases where foreign corporations merely establish an office, conduct and carry on business of the sale of goods, merchandise, etc. In these cases it seems the franchise tax imposed should be upon the amount of the capital actually employed in the state. In the state of New York a franchise tax, on foreign corporations doing a development business, is computed in a very fair and satisfactory manner. The total sales in the state of New York as compared with the gross sales of the corporation everywhere, and the proportion that the former bears to the latter is taken as the proportion of the capital stock employed within the state as a foreign corporation. In this instance, I do not think that the franchise fee should be charged upon the authorized capital stock of a foreign corporation. It is but proper though that a corporation engaged in a development business, such as mining, should pay a heavier burden than a manufacturing corporation that has come under a foreign charter to settle in the state and add to its wealth instead of taking out wealth as the corporation merely established as a selling house or a warehouse.

A penalty is prescribed in almost all states for those corporations who do business without obtaining authority to do so. A precise definition of the term "doing business" is almost impossible because there is no standard or criterion by which to establish a rule by the application of which it can be determined in every case whether or not a corporation is engaged in business in a given state.

The words "doing business" are very vague and have been the cause of much litigation. It is a general phrase like "police powers" and "interstate commerce." There are several definitions of the term "doing business" which it might be well to cite. In a Rhode Island decision (*Jacob Burg vs. Penn.*, R. R., 27 R. I., May 28, 1906) we find "a foreign corporation is construed to be doing business in this state within the meaning of the statutes, when it carries on the business here for which it was incorporated." A Kansas statute reads in part as follows:—"Every

corporation organized under the laws of another state, territory or foreign country, that has an office or place of business within this state, or a distributing point herein, or that delivers its wares or products to resident agents for sale, delivery or distribution shall be held to be doing business in this state within the meaning of this act." An Arizona statute says that "any company incorporated under the laws of any other state \* \* \* which shall carry on, do, or transact any business, enterprise or occupation in this state, etc."

The Missouri law deals with one phase of doing business in the negative when it defines "drummers" as people who are not considered as doing business, as follows:—"provided that the provisions of this article are not intended to and shall not apply to drummers or travelling salesmen soliciting business in this state for foreign corporations which are entirely non-resident."

The constitution of the state of Alabama has been construed to hold that the doing of a single act of business in the exercise of a corporate function was doing business, and therefore amenable to the foreign corporation laws of the state. It would appear that the best way of reaching a definition is to define, or to legislate as to "what is not doing business." The silence of the statutes of many states with reference to a definition of "doing business" seems to indicate a stress laid on the negative.

I believe there should be a relaxation of the rule that the courts of one state will not interfere in controversies relating merely to the internal management of the affairs of foreign corporations, or in other words will not exercise visitorial powers over them. It would be well that there be a relaxation of this rule in the case of the stockholders and officers of the corporation being resident of the state in which that foreign corporation is doing business as such, and in which its offices and business is carried on.

In a uniform law, provision should be made to limit the right to maintain actions at law or in equity in a foreign state by a foreign corporation, where there has been a flagrant violation of the law in regard to non-registration and avoidance of taxes and bonus thereby.

The holding of real estate by a foreign corporation is objected to in the statutes of many states, and it is a debatable question

as to whether such a corporation should be given the same rights to hold real estate that domestic corporations possess.

The aims of a foreign corporation law are the raising of revenue, and the protection of the citizens of a state from the abuse or illegal practices of a corporation entering that state to do business.

In a uniform law it would be very easy to arrive at conclusions providing for the filing of a certified copy of the articles of incorporation, for a resident agent, and for the filing of reports. The official in whose office the certified copy and the reports are filed is immaterial, although in almost all the states it is done through the Secretary of State's office. If the state has a corporation commission these two matters could be handled through the commission. The character of the information required in the reports could of course vary without destroying the uniformity of law with respect to foreign corporations, but a corporation that is honest should not object to supplying the general character of information that is asked today by even the most drastic of our various foreign corporation laws. A resident agent should be provided in every state wherein the corporation is doing business, because it is essential that there should be some individual upon whom process could be served and with whom the state authorities or those interested could deal directly. The points suggested in this paragraph could be agreed upon without any difficulty by the various states in the uniform law.

The subject of taxation and the payment of an entrance fee or franchise tax are the points upon which the law of the several states are at great variance today. It is on these points that the question of uniformity will find many obstacles in its path, because each state thinks that its own theory of taxation of foreign corporations is the best they know and understand. In a former paragraph it was suggested that a manufacturing corporation coming into a state should be treated more leniently in entrance fees and taxation than a corporation that comes into a state merely to derive benefits and give none in return, such as is represented by the erection of a manufacturing plant and the giving of employment temporary and permanent.

The corporation bringing such benefits as have been mentioned should certainly be treated in as fair a manner, with respect to



entrance fees and taxation, as a domestic corporation. For corporations outside of what may be termed "the beneficiary class," the New York plan, which has been mentioned before, seems to be the fairest and the best.

The most difficult question next to taxation is the subject of doing business, and to which reference has been made already. If this ambiguous term could be clarified and dealt with in a uniform law one of the chief obstacles to a law of this character would be overcome.

This article opens the discussion upon the question which is the subject of our Conference today, and although no definite draft of a uniform law has been suggested, it is hoped that the points raised may be of use to you in coming to the definite conclusion on this very important subject.

Upon motion, duly made, seconded and unanimously carried further proceedings were adjourned until November 13, 1914, at ten o'clock A. M.



## FOURTH DAY

FRIDAY, NOVEMBER 14, 1914.

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### MORNING SESSION

The meeting was called to order at ten o'clock A. M. by Governor McGovern.

GOVERNOR MCGOVERN—The Conference will please come to order. The Executive Committee has asked Governor-Elect Kendrick of Wyoming to preside this morning.

GOVERNOR-ELECT KENDRICK—Gentlemen of the Conference, the unfinished business of yesterday was discussion of the paper read by Governor Byrne of South Dakota. Any discussion on that paper is now in order.

GOVERNOR BALDWIN—Mr. Chairman, Governor Byrne mentioned in his paper that some of the presidents of the United States had followed the plan suggested, and I believe he stated that they went a little farther, and added bills to their messages. It seems to me a very excellent one. The only difficulty I can see is that it would perhaps overload the message with form, whereas the message is most listened to if it contains substance.

GOVERNOR BYRNE—I believe that in two instances President Lincoln sent special messages to Congress upon matters that he deemed important, and said: "I transmit herewith a draft of the bill to cover my suggestion." Other presidents have, and just from recollection I believe that President Taft followed that method quite extensively; he said in messages to Congress: "I have asked"—a certain department, the attorney general, for instance—"to prepare a bill embodying my views."

It was these matters I had in mind when I made that reference to the action of the president. I did not go into this with the care that I might, but when I was writing this paper I remembered particularly the action of President Taft, and he, I am sure, in several instances said in his message to Congress: "I have asked the head"—of a certain department—"to prepare a

bill covering these recommendations, and it is at the disposition of the committee, if they care to take advantage of it," and I think in most instances the bills were so presented. Of course, Congress did not always follow the suggestion, but that was not the idea. My idea was not to speak of the great importance of having the laws enacted just as the governor recommended them, but to bring matters to an issue distinctly and clearly in some way, so that the matter could be discussed pro and con, and brought, in large measure, before the people, and brought out in such a definite and clear way that the opposition to and support of the measure could be defined and understood.

GOVERNOR AMMONS—Mr. Chairman, I think it is a very interesting question. To any of those who have had any experience in our state legislatures it is apparent that something ought to be done in the preparation of bills different from the custom that generally prevails. I think I understand the importance of Governor Byrne's suggestion in this: That there is an advantage, so far as reaching the general public is concerned, to have particular bills on important subjects come from the governor direct, have it known that they come from him. On the other hand, we do not want to go to the other extreme which now prevails in the National Capital, where it is utterly useless to expect a bill to pass unless it is first approved by some department. The president cannot look over all the matters, and therefore, as a matter of course, bills, anyhow relating to the West, subjects in which we are interested, can get no consideration whatever until after they have been referred by the committee to certain departments and the O. K. of those departments secured.

Now, I do not want to see this go to that extreme. I have followed somewhat myself the suggestion contained in the paper of Governor Byrne. We had a troublesome tax matter. It was necessary to revamp our entire system, and the bills were prepared with great care. It was necessary to have several of them, and they must be in harmony with each other. We had to go even to the extent of a constitutional amendment, and we anticipated by legislation the laws which that amendment would finally make operative.

Now, I believe that has been followed to a large extent, that course in our state, perhaps not so much by others as by myself.

But it is necessary that we should have some little different system. For instance, I think we have on an average 1,200 or 1,500 bills introduced. A large number of these are duplicates. They treat of the same subject. The introducers of those bills have a personal interest in them. Constituents are thought of by the man who is introducing the bill. He wants the credit for his own political future of getting that measure through. If you have three or four or five members introducing similar bills, the more popular member is likely to have his bill considered, and sometimes it is not as good as others, and sometimes his personality may affect the legislation which is not as well considered or as perfect as it ought to be.

I was speaker of our house of representatives a couple of years ago, and my experience there taught me that the greatest reform, if you want to call it such, or improvement, that could possibly be made in the introduction of bills, was to see to it that no individual member could introduce a bill at all. If he has a bill to present let him bring in a resolution requesting a committee to introduce the bill. If we could only eliminate the personality of members in the introduction of these bills the public service would be greatly improved. I have never changed my mind. I have had some experience in both houses of our state legislature, and I learned, a long time ago, the thing that is necessary, above all others, is to remove the personality of the introducer of bills from legislation. We have ample committees and we have this advantage: if a committee takes all of the bills and prepares the measures, consulting, as it always will, the chief executive, or taking his bill where he has made a study of some subject, and using that as a basis, we will have very much better legislation. It will be more harmonious with the laws already on the statute books, and very much greater results secured.

The general public, in my state at least, looks to the governor each time for recommendations, just as the country looks to the president, and members of the legislature generally would like to follow the chief executive's lead wherever they can.

I do not know much about other states, but take my own and those immediately adjoining, and we have greatly diversified interests. We have matters that seem to be in conflict in various portions of the state. In one single line, for instance, trans-

portation. And these things are hard to adjust, and it is therefore vitally important to us that we have a general plan to work to in order to get the best results, and I am very much interested in papers that lead to a discussion of such subjects as this, because much of our faulty legislation in our part of the country has arisen from a defective plan of originating and considering these measures, and I was therefore very much interested in the reading of the governor's paper, and I hope, for my successor at least, to get what the experience of others has been in order that we may improve our system in Colorado.

GOVERNOR WALSH—Mr. Chairman, at times I have observed resentment on the part of legislatures at an executive framing legislation. I think legislators are very jealous of the right to shape the details of a bill. For instance, the fixing of the number of members of a commission, the salary to be paid the commissioners, the term of office of the commissioners. My experience has been that on the whole the members of the legislature do not care or like to have the executive put into their hands a bill and say—Pass this bill, though I think at times it is very necessary for the executive to do it. I have at times sent a bill to the legislature.

I have been able to make the best progress by having the committees of the legislature come to my chambers and consult and confer with me, and invariably I have been able to have my ideas expressed in the report of the committee without appearing to dictate or suggest to them, or take away from them the power or the right of initiative in forming legislation. So that I think it is possible for an executive to go too far and to fail in accomplishing all that he desires if he seeks in every instance to submit bills embodying his recommendations.

I would like to hear an expression of opinion from some of the governors as to the wisdom of the chief executive appearing before legislative committees. I did it this year, in one or two matters in which I was vitally interested, the first time in thirty years it has been done in Massachusetts, almost the first time in the history of the state. I have found that very few people interest themselves in the recommendations of the governor. They seem to assume, the people outside of the legislature, that the governor's recommendations will be heeded and considerable

thought and attention will be given to them by the legislators, but when the recommendations have been received, and the day has been fixed for hearing on some of the questions upon which there was the greatest public agitation, there will be scarcely a person present at the committee hearing, and hostile political members of the committee are very likely to use that as an argument that there was no public sentiment on, perhaps, the very question that was made the most important issue by a governor in his campaign. To obviate that I think it is wise for a governor to go before the committees himself, representing the people who voted for the measures he advocated. I remember when I appeared before one committee, one of the committee members said: "There isn't much popular sentiment for this, very few people are present," and I answered him by saying: "What are you and I here for? Who have sent us here? What is our business? Have I got to ask as a favor the legislation I advocated before the people, or do you think that every man who voted for me in the state must come here and advocate it again and impress you with its importance? Isn't it the business of the governor and the legislature to advocate the measures which the people themselves have passed upon?" It seemed to be a new suggestion to the legislators, but one which I think impressed them that they are really the spokesmen and advocates of the people who passed judgment upon these issues on election day. Therefore, I think that a governor, with prudence, with caution, ought at times, when these matters are before legislative committees, to go right into the committee room and to present the case of the people who voted for him, to be their advocate on a measure which he went before the people upon and received their support in his campaign.

I have, on the two occasions when I went before committees, suggested bills to them along the lines suggested by Governor Byrne. I have always found a great deal of difficulty in having the bills properly drafted. In large states like mine the governor is a very busy man and has not time to draft bills, and I think one of the greatest troubles a new governor must experience is to be able to place his hands on men familiar enough with public questions and with language necessary to express ideas,—to be able to find men able to do that work, and I con-

fess it has been one of my great difficulties. Some of the departments have been able to draft bills satisfactorily embodying the ideas of their particular department, but it has been very difficult, very hard, to find men who are familiar with that kind of work. I assume your legislative reference library here, and such as you have in Illinois at the present time, is a tremendous aid, and I want to commend that legislative reference bureau publicly here to the people of Wisconsin. I understand there has been some criticism of it. Yesterday I went up to the library to find out what Massachusetts had done on the workingmen's compensation law—I had not the material with me—and there was handed to me the report of the original committee of the legislature that investigated the subject, the opinion of the supreme court of Massachusetts as to the constitutionality of the proposed act, editorials from the leading papers of the city of Boston, my own inaugural message, and the act of this year. Now, I doubt if there is another library in this country where that information could be furnished. I am sure I could not go into the city of Boston or the state library of Boston, both of which are splendid libraries, and have handed to me that information in pamphlet form. Elsewhere I would have been handed twenty-five books to go through to find this particular information. I consider this a great help, a great service it must be to the legislature in drafting legislation.

Now, Mr. Chairman, I have raised this question merely to get the opinion of the other governors, and I would like particularly their ideas as to the matters I have mentioned. I can appreciate that there might be resentment if it were done too frequently. The legislature might feel that the executive was interfering with their rights in coming personally before a committee, but it seems at times necessary in order to impress strongly upon committees the interest the governor has in public questions.

GOVERNOR DUNNE—In response to the suggestion of Governor Walsh of Massachusetts, I am perfectly willing to give him the experience of the last two years in the State of Illinois. I have never had occasion to go before a committee of either House and advocate any measure, even those in which the administration was definitely concerned. As I stated yesterday to Governor Byrne, after hearing his very interesting paper, the practice



pursued under the present administration has been to prepare bills along the lines of the recommendations in inaugural messages, and place those in the hands of members of the House or Senate in sympathy with the program. As a result of that course, without appearing before committees, I have found that very satisfactory progress was made in the administration bills, particularly in view of the fact that the House, this session, adopted a rule giving to administration measures the right of way over other bills.

GOVERNOR WALSH—What does that mean, Governor?

GOVERNOR DUNNE—That measures mentioned and recommended in the inaugural message and referred to committees shall have precedence in the order of consideration and shall be reported back to the House with rights of precedence.

GOVERNOR WALSH—Does your legislature pass upon every measure proposed? The legislature of Massachusetts cannot adjourn until every petition, every bill presented, has been heard and report made by the committees and action taken by the legislature.

GOVERNOR DUNNE—I do not know that there is any such rule in Illinois. I think a great many bills that are referred to committees of one character and another, are frequently killed in committees and never appear in the House.

GOVERNOR WALSH—That is not permissible in Massachusetts.

GOVERNOR DUNNE—But, with reference to appearing before the committees that have measures in charge, it has been my experience that the committees rather send for the governor than have him appear voluntarily before them. The committees have sent for the governor, and on such occasions, of course, it is entirely appropriate, entirely proper, for the governor to appear and advocate such measures as he is interested in. I do not know as I ever had occasion voluntarily to appear before a committee on any matter on which I was personally interested or had recommended, but on several measures, in reference to appropriations, and the public utility bill, I recall, committees have sent for the governor to attend before the committee. The committees seemed anxious to get the views of the executive with reference to certain measures recommended, and, as a result, we made very satisfactory progress, although the legislature was

not always in sympathy with the executive on political lines.

GOVERNOR STEWART—Mr. Chairman: The Massachusetts rule differs from that of many states. For instance, I know that in several of the states the session expires by limitation. In our state our constitution simply provides that we shall be in session for sixty days, beginning on the first Monday in January. The session expires by limitation in that time.

The worst thing we have had to contend with has been the tendency of the two Houses to dilly-dally along during the early part of the session; they meet and adjourn, have bills introduced and considered more or less in committees, but generally less, until the session is about half or two-thirds over, and then the bills begin to come in pretty rapidly. I know that at the last session of the legislature in Montana there were 125 bills came down to me on the last day. I had something like 175 or 200 bills in my hands when the legislature adjourned. Under the constitution I had but fifteen days to consider these. If not approved at the end of fifteen days, they are considered vetoed, even though I do not have time to consider or veto them.

Now, under such a system the governor has inadequate time and opportunity to thoroughly consider measures. If he was able to keep track of all legislative proceedings all the way through, familiarize himself with these bills as they are introduced, and keep track of the amendments as they are offered and adopted, so he would know what the bill is when it comes to him, it would be a different matter, but that is beyond the power of a man who has other duties to perform. Except in important matters, he must wait until the bill gets down to him. Then he must read it carefully, and consider it, and act upon it, and, after the legislature adjourns his action becomes absolutely final. The whole thing is right in his hands. He has fifteen days then with 175 or 200 bills on his hands, as I had at the last session, whose passage or death is in his hands, and yet he has that insufficient time for investigation and consideration.

If there was a way whereby the legislature could be induced or compelled to pass on all bills early in the session, we would have much better results. I have often thought that if there could be some rule made whereby bills would be introduced and referred to committees, and then a recess of thirty days taken, we would

get results. Of course if such a plan were adopted no new bills could be presented when the legislature reconvened, except perhaps emergency legislation. But there are always people who hang back, who know that their measures could not, would not go through, if they were introduced early in the session. This is true very often of appropriation bills. The old timers in the legislative game who know what it means to have the rush, who know how fellows get anxious to push their pet measures through at the last, hold their measures back until the very last. These are the log-rollers, and during the last few days of the session, or even the last night, when everything is in a rush, they spring their pets and crowd them right through. The result is that these measures are presented to the governor after the legislature adjourns. He takes the whole responsibility, without an opportunity to refer them back to the legislature for further consideration. He takes the whole responsibility of saying this shall or shall not become a law in his state.

And the subject matter of the measure may be all right. It may involve a principle that is right and should be carried into effect, but the jobbers at the last moment attach to it some condition or some sort of provision that is inexpedient and may be absolutely wrong. This places the governor in a hard position. For instance, the general proposition involved is the only thing that is known to the people. They know, for instance, that a bill creating a railroad commission, we will say, has been passed by both houses of the legislature in accordance with the platform pledge of the party, and it is put up to the governor. He can either veto it or approve it. The legislature has adjourned; the members have gone. There may be pernicious provisions in that bill that the people themselves would not want enacted into law if they knew about them. But they do not understand those things. They place the governor where, if he vetoes the bill, they can go on the stump and say: "Why, we passed a railroad commission bill; we fulfilled our platform pledge, but the governor stood in the way and vetoed it." So you can readily see what it means in our state where we have a limit on the session, what it means to the governor to have to act on those bills after the legislature adjourns.

GOVERNOR MCGOVERN—Do you approve limiting the duration of legislative sessions?

GOVERNOR STEWART—No; I do not. I think there ought to be some limitation. I really believe there ought to be some limitation, but my idea about it is this: if they would provide a limitation of sixty days, as we have it, on pay, and then force the legislature to stay in session at their own proper expense without compensation, or with a minimum compensation, until the measures before them, as Governor Walsh has said, has been disposed of, and until the governor considers each bill and refers it back to them for a chance to override his veto, we would accomplish much more. I believe in that way you could force your legislators to try to get through in sixty days, because there are very few of them patriotic enough to want to stay at their own expense. I think that is the plan in the State of Kansas. They get paid for sixty days, and then at the end of sixty days they may remain in session, or may not, just as they see fit. However, there is no provision that compels them to dispose of all measures, but if we had this Kansas plan, allowing them to stay in session without pay after the sixty days, and then the additional provision that Governor Walsh mentioned in his state, that they should be forced to consider everything and dispose of it finally, and then the further provision that they should be forced to stay in session until the governor sends these bills back or approves them, I think conditions would be much more satisfactory.

GOVERNOR WALSH—Have you authority to prolong the legislature?

GOVERNOR STEWART—No.

GOVERNOR WALSH—In our state the legislature cannot be adjourned without the governor's consent.

GOVERNOR STEWART—In our state it adjourns in sixty days.

GOVERNOR MCGOVERN—Does that mean sixty days after the time of convening, or after the lapse of sixty legislative days?

GOVERNOR STEWART—They construe it to mean sixty days after the time of convening, and members collect for Sundays and holidays, and adjourn at the end of sixty days. I think Wyoming has the same law.

GOVERNOR SPRY—Governor Stewart, do you have a long day for the sixtieth day? Do they stop the clock and work perhaps three or four or five days a week?

GOVERNOR STEWART—They stay in session generally until noon the next day. In fact, we have, on different occasions in the old days, elected United States Senators along toward the morning of the sixtieth day. The custom was in the old days for some husky individual to throw a mallet or something else at and stop the clock at about a quarter to twelve or half past eleven at night, and then they would stay in session and just rush the bills through. I remember some years ago they elected a United States Senator about four or five o'clock in the morning, Senator Gibson, after a very spirited fight throughout the whole session. They stopped the clock and elected a United States Senator along about four o'clock in the morning. The United States Senate seated him, however. There was no contest.

But even the matter of electing a United States Senator at that time was poorly considered and strictly illegal, but it means a great deal more to the people of the state to have measures shunted off onto them. Bills that have been considered and are all right, are held back, and amendments are stuck on them at the very last, and, of course, that is just as pernicious as to pass a bad bill in the first instance. The Senate is where the politicians generally land, with us, and they hold a bill back in the Senate committee until the last minute, and then that body proposes an amendment to it and reports it right out to have it voted on quickly, and rush it over to the House, and the House fellows are forced to vote for it, amendments and all, in order to get some of their bills through. It is purely a log-rolling procedure during the last days of the session. If any of you folks have a plan whereby you can obviate this, I would like to hear it. I had things "put over" on me at the last session of the legislature. Provisions, on their face harmless, were run into bills, and, of course, we had no opportunity to study them carefully, and they got through.

GOVERNOR AMMONS—In our state we had a constitutional limit of ninety days. The people voted a constitutional amendment removing the limit, and, instead of paying a per diem of \$7 a day as previously, they fixed the sum total of salary at \$1,000 for each member. He is paid at the rate of \$7 a day for every day of the regular session, as long as the \$1,000 lasts.

The trouble with our General Assembly last time, in spite of all the persuasive influence I could bring to bear, was that along

toward the end of the session—they probably wanted to get rid of a lot of bills pending—they fixed in advance, by resolution, the hour at which they should adjourn, and we got into almost the same trouble over that as we did when the constitution fixed the limit. I think, however, that one experience will prevent their following such a course again. Of course, the intention of the constitutional amendment was that they should finish their work and then fix the time of adjournment, which would not take more than five or ten minutes, and that would be the proper thing to do.

GOVERNOR MCGOVERN—Governor Ammons, are we to understand that your state has changed from the system of limited duration of the legislative sessions to unlimited?

GOVERNOR AMMONS—Unlimited. They can stay as long as they please, but they do not get more than \$1,000. They are paid along two weeks at a time, \$7 a day, as long as they are in session. If there is anything left they are paid at the end of their term of office the balance of the \$1,000.

GOVERNOR MCGOVERN—When was that change made?

GOVERNOR AMMONS—That was made very recently. Four years ago, I think.

GOVERNOR MCGOVERN—What led to the change?

GOVERNOR AMMONS—The very conditions which Governor Stewart mentioned, that everything was crowded over to the last night. There was delay in the fore part of the session, which was encouraged by those who had axes to grind. There are certain interests in every state, I imagine, certainly it was true in ours, who are anxious to kill most everything that is constructive; railroad legislation, for instance, something that was very obnoxious to certain interests. They would begin with the new members, and delay matters, tell them there was no hurry, and they would keep measures from getting out of committees until along at the last, and crowd everything over so that most of the work of the session would come up in the last few days, and it was utterly impossible to finish that work correctly, and it would make all the conference reports come in the last few days, and on very much disputed matters these could be "jobbed," to use a common phrase, a great deal easier than it could be done in the earlier part of the session.

We have had such things as this: Our constitution requires that a bill shall be read first by title on the day it is introduced, and twice at length. The second reading, however, by custom, it had at the time of consideration in the committee of the whole, where the bill is considered section by section and amendments were made. On the third reading, final reading, no amendment could be made except by unanimous consent, and they were never made unless it was a clerical error to be corrected, or something of that sort. But by putting over this work to the last days of the session this was the result: They could not have time to read the bills on second reading the last day. It was an utter impossibility. And I have seen a dozen people reading bills at the same time. As a matter of fact, they never were read. As soon as the clerk, who was very wise, discovered no one was watching him, he skipped a few pages of the bill. He read the first part of it and the last part only.

I just recall the matter mentioned by Governor Stewart which we had some experience with in our state. That is about breaking the clock. We never broke any clock, but it was always stopped. Congress does the same thing except on the final session, and it often reaches over even there, and no one has ever been able to go into court and attack anything of that sort. We have had people, a large number of times, go and file protests at a certain hour, and place the protest on the record with the idea that they could attack the legality of the proceedings. I am not a lawyer, but the constitution presumes, and I believe the courts have decided, that there is just one way to make a record, and that is by the majority in the ordinary way, and I imagine that if every single member would simply file a protest it would cut no figure whatever when it came into court. In other words, the courts are going to take those records as they are. No one has ever been able to attack them, in my state, and have a measure declared unconstitutional because of the procedure in passage. I have been present as a boy or citizen almost every time the legislature concluded its work, and they have invariably overrun the regular time, but no one has been able to attack any measure on that ground.

We have had instances where conferences were had at the last moment and whole bills were changed. I had to veto a bill at

the last session, a measure I had urged strongly before the General Assembly and tried to get through, because it was changed from one end to the other in the conference report, and was in direct conflict with the public utilities, banking, and insurance acts. I was compelled to veto it. We have had the experience of which Governor Stewart spoke—the time limit. We thought we had remedied it, but the legislature itself this last time nullified the action of the people by placing a time limit by resolution.

For instance, they came near making it necessary to call a special session because they could not agree right at the last on the general appropriation bill. I had the conference committee down in my office for twelve hours before they would agree. I knew all the time if they ever got out of that room they never would agree. But I believe the lesson they learned at that time, in attempting to fix a certain day for adjournment, contrary to the spirit of the constitution, will be of benefit, and it will not occur again unless very powerful influences get control, and want to beat some particular measure.

GOVERNOR WALSH—Mr. Chairman, if I may answer the question of Governor Stewart: I should say that the remedy for the condition described in these progressive Western states is to get a few progressive ideas about legislatures from the Eastern states. What is the legislature? It is a court, and the legislature has no business to adjourn without passing upon every proposition and every case that comes before it, any more than a court has to adjourn. It is the general court of the people, and it seems to me any provision limiting the time within which cases of the people should be heard in their general court is un-American, and I cannot conceive of any idea more progressive or more in the interests of the people than the maintaining of a free open door in the legislature, where the humblest person can come with his petition and know it will be heard by a committee, published and advertised. He will have a right to go there and know that reports must be made to the House or the Senate, and his legislative representatives can take the case and present it to the whole jury, the legislature of the state.

That is one of the things about Massachusetts that I think is specially deserving of praise, it has clung to that old New England town idea in its legislature of compelling the legislature



before it closes its doors to hear in committee and to pass upon and act finally in the House and Senate upon every single proposition. The humblest widow in Massachusetts can come there with her petition for compensation because of injury to her dead husband, and know she will have a trial and hearing before the legislative branch of her own government. I fear that a condition of true democracy cannot prevail where there is a limitation upon the session of the legislature.

Now, we have a good deal of criticism about the length of the sessions of our legislature, but the right to file a petition and to be heard on it is so fundamental, is so valuable that the question of time or of expense in this connection becomes of minor consequence.

GOVERNOR DUNNE—How are your legislators paid? Per diem or salary?

GOVERNOR WALSH—A fixed salary for the session, \$1,000.

GOVERNOR AMMONS—How do you avoid that tremendous, useless work in the duplication of bills? Does the committee always report one, or report two sometimes on the same subject?

GOVERNOR WALSH—They always report one.

GOVERNOR AMMONS—You always succeed in having that done?

GOVERNOR WALSH—Yes; but the member who introduced the bill, though not a member of the committee, has a right on the floor of the House and Senate to object to the report of the committee and present his case then to all the members of the House and Senate.

GOVERNOR AMMONS—Have you the initiative and referendum there?

GOVERNOR WALSH—No, but with the help of God we expect to have it soon.

GOVERNOR AMMONS—We have it.

GOVERNOR WALSH—The initiative and referendum is the only effective anti-lobby legislation I know of, the right of the people to correct bad laws and make good laws. These measures will remedy the very things you complain of in your legislatures.

GOVERNOR AMMONS—Who would initiate your bills, in your mind?

GOVERNOR WALSH—The people themselves, by petition.

GOVERNOR AMMONS—How? Who would prepare the bills?

GOVERNOR WALSH—The leaders of the people.

GOVERNOR AMMONS—That has been the very greatest difficulty, Governor, getting these bills prepared properly.

GOVERNOR WALSH—Well, is initiative used very much in your state?

GOVERNOR AMMONS—Yes, sir. Two years ago we had thirty-four measures.

GOVERNOR WALSH—Can the people initiate a bill the legislature has not considered?

GOVERNOR AMMONS—Yes.

GOVERNOR WALSH—I do not believe in that. I believe the legislature should first consider.

GOVERNOR AMMONS—I have been trying to get some light from people here. We have had some very bad results because I can go out and get a bill submitted just as I want it, if I can get enough signatures, and that is not difficult of accomplishment.

Then we have another thing to contend with: We wanted to make this matter of petition just as free as we could, any considerable number of people, if they could get the requisite number of signatures, could present a measure to the people. Now, this is what happened: We had thirty-four measures two years ago that went before the people for their vote. Sixty-five per cent of all the signatures for the submission of all these were secured in the city of Denver, between the Union depot and Stock street, about six squares away, and between 14th and 20th streets in consecutive order. There was evidence of something wrong; and not only that, but we had pages and pages right along together that were apparently forgeries.

GOVERNOR WALSH—Why isn't your remedy to limit the initiative and have them present the bills to the legislature first?

GOVERNOR AMMONS—That is what we are trying to do. I have recommended to the General Assembly the enactment of a law making it unlawful for anyone to receive pay for securing signatures. I do not know whether that is too drastic. But we must do something. Initiated bills are prepared without any great care, without any idea of how they were going to affect the entire state, and always, so far, by a small number of people who had some peculiar notions on the subject. The legislature has submitted some measures, and those, of course, have had care and consideration in their preparation.

I will say I was a very strong advocate of these measures, but when we got them in the ordinary form and after our experience, I discovered that we had just reached the threshold of the subject and that they must have better consideration. Our measures must be improved.

GOVERNOR CAREY—With reference to the length of the legislative session, out of deference to Governor-Elect Kendrick who succeeds me, I signed a constitutional amendment, approved a constitutional amendment, which I did not believe in, by which he wanted to extend the length of the legislative session in Wyoming to sixty days—it is only forty now—with these restrictions: bills must be introduced within a certain day in order to be considered at that session, and they must be passed upon by the committee before a certain day, so we can avoid what now occurs in Montana during the last five or ten days of the legislative session. Now, these bills are handed in to the governor when the legislature adjourns. We had a terrific time in the last legislature. I was on the verge of becoming insane. They said the governor was an old stubborn, good-for-nothing, etc., etc. It was a pretty hot time all the way through. I used the veto power as it has never been used before. During my term I vetoed appropriation bills totalling three-quarters of a million dollars, but they were never criticized because the state lost nothing by the vetoes. I had to veto a great many measures. Now, after the adjournment I had ten days to consider them in. I went over them very carefully, sat up until midnight each night for the last ten days. I read every bill and considered it as carefully as I could, except one, which was a very long insurance bill that the auditor of the state told me was already in force in twenty states, so I had not the heart to veto that, and yet I hadn't the time to read it.

(To Governor Walsh): I do not believe in your plan. I could not believe in Governor Dunne's plan of paying \$2,000 salary to the legislators. That would ruin a young state. One of the main things is to keep within reasonable bounds so far as taxation is concerned.

I think that this Wisconsin reference library could be introduced in the West to good advantage. It is an institution for the legislator, and the men you refer your material to for bills do

not incorporate their own ideas. For instance, a man presents an idea that he wants framed into a bill, and he goes to your reference library and they do the technical work for him, his idea prevails, does it not?

GOVERNOR MCGOVERN—That is implied.

GOVERNOR CAREY—Now, the lobbyists they have around this beautiful capitol—I understand there are some—

GOVERNOR MCGOVERN—There were a few years ago.

GOVERNOR CAREY (continuing)—are very much opposed to this reference library, and long magazine articles are being written about it. I have received some of them and read some of them. But if you analyze their objections you will find that they are opposed to the reference library because it has destroyed their occupation. If we can get a reference library, not extensive, but on a reasonable scale with some man who is honest of purpose, some man who will not do a thing because he wants it done, but who will put these measures in good legal form, who will work them out for the members and look up these reports the governor from Massachusetts told us about today, and go through the records and make a report to the member, give him back his bill in form, it would be a good thing. Now, we have to be very careful, I think, to select a man of the right kind. They have a man named McCarthy in this state, a very able man. I am told that he revised the platform on which President Wilson was elected; he revised the platform upon which Mr. Taft ran, and he revised the platform of the progressives. I know he did that, because I happened to be there. So, if we get in each one of the Western states the right kind of a man in a reference library, I believe great good will result.

I cannot see any objection in the world to an executive framing a bill and sending it to his legislature. Just as you (Governor Walsh) have said, the people elect the governor. They elect him, as a rule, on a certain platform, and they expect him to impress upon the legislature his ideas, and they hold him responsible. If he does not succeed in securing the passage of measures that he told the people he favored, they are inclined to censure him rather than censure the legislature.

It is the right of the executive. The responsibility is placed upon one man in the executive office, and I believe he has a right

to fight for his nominations and for confirmation of his appointees. I believe he has a right to fight and use every means that is honorable to get through the legislature the legislation which he believes is to the best interests of the people over whom he presides for the time being.

GOVERNOR-ELECT KENDRICK—As incidental to the explanation offered by Governor Carey, of the resolution introduced providing for a constitutional amendment in Wyoming, I will state, for the information of Governor Stewart, that whether it is corrective or not, it was intended to correct the methods and practices on the closing days of his legislature, of which he complained. The amendment provided that no measure might be introduced within twenty days of the close of the legislature, without unanimous consent.

A short legislative experience is sufficient, I think, to convince anyone that one of the great responsibilities of legislators is that of preventing, as well as enacting, legislation. Since coming to Madison we have heard a good deal of the legislative reference library. Dr. McCarthy is here in response to our invitation to tell us about this department.

DR. CHARLES MCCARTHY (Chief, Legislative Reference Library)—Gentlemen: I am greatly honored to have this invitation to come before you. A good many of the governors have been upstairs looking over the work done there. This work has been going for quite a long while. For nearly fourteen years this work has been under way, and a great many other states have adopted the plans laid down here. I think about twenty-five states are following our plan, in some degree at least.

I believe that the work has been the outcome of absolute necessity; that if it did not come here it would come sooner or later somewhere else in this Republic; that it had to accompany growth in representative government if representative government was to have an intelligent product, if statute law was to be dignified and logical and of some use in carrying out the will of the people. I say that because the situation has been entirely different in the last fifty years in America than that conceived of by the fathers of this country, or than that which we ever had in any place in the history of the world, previously. Blackstone says the law should fit the state as the clothes, the body. Now, there is

no use trying to build up a body of statute law for the people unless that statute law fits the great economic changes which are occurring constantly. If you are to regulate automobiles on the street out yonder you must know what an automobile is. When automobiles are running wild on the prairie you do not have to have any regulations for they do not kill anybody, but the minute they go up and down the narrow streets, children are in the way, and you have to see that the automobiles are permitted to run on the streets and yet not do harm to human beings. 'And this is so in dealing with the questions of the railroads, of public utilities, of insurance, and of many great complex commercial questions of our day. Well, the automobile has some machinery; it can be stopped within a certain number of feet. A consideration of the exact number of feet is necessary in the statute. It has got to have its place in the statute, or else you are making statutes which will harm civilization and harm economic progress.

I want to say that the legislative library in this state, that is, the idea of building up statute law by means of bringing together all the data which comes up in the history of law throughout the world, is the greatest safeguard to business and to the prosperity of the state that you possibly can get. There are men, near-sighted men, who fear the establishment of a legislative library and facilities for drafting legislation. They fear that another force will come in which will usurp the position of the legislators and will take out of their hands the drafting or building up of legislation. Now it is very obvious to you gentlemen who have talked here today, that profound changes are coming in our legislative bodies, that in a state which was simply an agricultural state in the past, the legislation must be entirely different today and the machinery for taking care of it must be different.

In a way, there must be some analogy between what is being done now by the big corporations and what will be done by the state. John D. Rockefeller, in his early career, knew about the refining of oil. He no doubt walked around among the workmen and directed them and he knew the bosses. But, as time went on and he began to have a very complex machinery for dealing with oil, he employed chemists who brought 220 different products out of oil. Necessarily, in order to run that big business,

he had to keep away from it somewhat, that is, he had to see the broad lines through it, and, after years had gone by, he is seen, sitting with a lot of other trustees in a building in New York receiving the reports from all over the field. He does not say to the chemist: "You mix up your chemicals, thus and so, to make a good kind of axle grease." No, he gets a chemist, and he holds that chemist responsible for the results. So the great machinery works out in that way.

Now, as legislation increases, and as economic life increases in complexity, surely we must have a system to meet it. In other words, instead of passing upon a safety device, which it never sees, by saying in the rush of a sixty day legislative session, that that safety device shall be 10 feet 6 inches long, when a new patent next day may necessitate the substitution of a 6 foot device, and instead of trying to legislate without information as to patents, machinery, automobiles, railroads, accounting, insurance and other complex questions, the legislature must have some means of securing information and some machinery for dealing with these complex economic problems. I will tell you, gentlemen, that it cannot do that and do it intelligently, and do it to serve business unless two things be added to our legislative machinery of today. One, that in as far as possible democracy shall have the benefit of the experience of where and how a thing has been tried out previously. Democracy must have some kind of an expert to call upon and to ask about these things and to get the evidence. Secondly, that there shall be some great subjects about which democracy shall lay down certain principles. Take for example the legislative method of regulating railroads. I believe that the first law in Wisconsin in 1874 tried to define the distance tariff on grain between certain sections. Men fought over it. Finally what did they do? They laid down the general rule that rates shall be reasonable and that there shall be no discrimination, and so they imitated John D. Rockefeller in dealing with a great corporation. They laid down a great legislative policy, and then they got somebody to carry out that policy and held him responsible. And so, when it came to the great problem resulting from the machinery of industry, where human beings were being mangled day after day and men came to the legislature and cried for protection against electricity and flying wheels and belts

what did it say to them? Well, it said that there shall be a general rule that all places shall be reasonably safe and sanitary. Then it got a responsible servant to carry out that rule.

In some ways, then, the legislature has laid down general principles to be carried out by expert servants. In other ways it has taken the problems which it was not quite ready to give to its expert servants and secured the information about them and it has given the farmer and the laboring man a chance at legislating by putting into his hand some machinery for drafting that information into shape.

Now, I want to say that that is the essence of this legislative business. It does not interfere with any legislator, but puts into his hand the only machinery that will aid him rightly to represent his constituents. I have been here fourteen years, and I want to say that if I were elected to the Wisconsin legislature, with all the experience I have had in this work, and the study I have given to it in different parts of the world, that I could not represent my constituents without having some machinery at hand to enable me intelligently to pass upon the great number of bills that come up in a legislative session. It is impossible, and I will defy anybody to say that he can decide upon the hundreds of complex problems that come up today. The number of bills will increase, because every new economic factor today brings up the question of whether that economic factor shall be given liberty to work its way and build itself up, or whether at a certain point it shall be condemned as conflicting with human welfare or human rights. And, in different stages of civilization it will be different. In some parts of the West where men are not rubbing elbows together and where capital flows in very slowly, when the land problem or the water power problem comes up, there is going to be a different situation than in a great commercial state like Massachusetts where things have settled down. The law and economics go together absolutely. The questions of one day are not the questions of another. Personal liberty means one thing at one time and means an entirely different thing at another time, as may be illustrated by comparing the personal liberty granted in the crowded ultra-civilization of the nineteenth century in Europe with that of our Western states.

There are two things I want to say here: First, if there is no



reference library, then somebody, who has been reading about old age pensions, for example, or sickness insurance, will follow up one of these movements and will arouse a wave of popular sentiment, which results in the passage of a law that won't work, chiefly because the information on which that law was based was incomplete and inaccurate.

Second, the greatest protection to the courts, I say, is a betterment of the statutes. If the Supreme Court of our state or of the nation constantly declares legislation unconstitutional that fits into the economic life, then sooner or later the people are going to say to the Supreme Court: "You are interfering too much with our will." If the legislators put up to the courts and to the Supreme Court legislation technically right, and based upon study, the Supreme Court does not have to declare it unconstitutional, and both the court and the legislators retain the confidence of the people.

We are building this vast building here. Democracy is doing it. And how does democracy build it? In the olden time we would not have such a temple as this. We might have come together in Madison and built a log hut. The legislature enunciating the will of the people, might say: "We will have a capitol," and then: "John, you cut down the trees," and "Bill, you put them down there," and they might construct some kind of a house where they could meet, as they did in the first days of this and other states in this country. It was not anything unusual. But now when the time comes to build a great temple the representatives of the people do not gather and say: "You get the marble, you erect the steel structure, and you provide the bricks, and we will get together and build it like this." They say: "Let us find out where such temples have been built." They pass upon the general phases. They want it in Madison, on this piece of land, and they plan that it shall include quarters for certain departments, and that the price shall not exceed a certain amount of money. Whom do they call in to carry out their plans? They call in architects and say: "Architects, spread your plans before us." When these representatives of the people have decided on a plan, they say: "This one is good, and now, Architect, build it." They give them power to build it. They direct them. They carefully supervise them, and out of it grows this

thing of symmetry, which the building inspector does not have to condemn, or declare a menace to industry and welfare.

But if a statute is built on the other system, haphazard, without consideration of the vast and tried experience of the past, the building inspector has to come, for public safety, and knock it down. As a result, sooner or later, the building inspector may grow strong and do the work of legislating himself. In that case the people will say to the building inspector: "If you assume the powers of legislating, we are either going to elect you or regulate you; we are going to control you." For the safety in our system of government is to put the control in the hands of democracy and safeguard it, so that when power is given to administrative bodies like the Wisconsin commissions, the industrial commission, the railroad commission, or a department like the legislative reference library, these new instruments coming up will not control democracy, but will be its servants.

Now, that can be done. There ought to be machinery added to the Wisconsin commissions. I hope there will be in other states also.

GOVERNOR DUNNE—What do you mean by "machinery?"

MR. MCCARTHY—I will say here, Governor: These commissions are courts, they are servants, in a way. It does not do to have those servants obtain such power that they cannot be controlled. In England you would see these administrative servants subject to questions in the House. I have seen John Burns brought up there and heckled for an hour on some question.

GOVERNOR DUNNE—In the House of Commons?

MR. MCCARTHY—Yes, on the question of the importation of diseased hogs. And if some minister who may be summoned to answer questions should answer those questions so that they were not satisfactory to the people back of those representatives, a simple vote of lack of confidence would do away with him. I believe, from my experience that all these commissions should be subject to questioning before the legislature and subject to a vote of lack of confidence which would do away with any individual commission in the end. Such ultimate responsibility to the people would strengthen the commissions. The people will not give power to a servant unless they know they can control that servant. They will not go and put him out at one side saying:

"Here is some semi-legislative power for you," but they say: "You must go to work and be answerable." I haven't any hesitancy in saying that I would go farther than that, and say that if he has large legislative powers that he should be answerable to the people of the state by means of the recall. I think he should be appointed, have a good salary, and keep out of politics.

GOVERNOR DUNNE—Couldn't he be removed by the appointing power?

MR. MCCARTHY—Yes. Now, I am only expressing my ideas to you. Governor Carey brought up the question as to the department upstairs. In this last campaign it has been said throughout Wisconsin that the Wisconsin legislative reference bureau runs the state, that it frames up the legislation and hands it to the men all along the line. I have had the pleasure of having some governors upstairs looking over the records, and I will say that I have challenged men to come and look at the records of legislation, that for every bill drafted upstairs we have the record of the request of the legislator, which is filed for future reference. That should be the case. We cannot repeat the old lobbyists' game, we cannot have the old harpies of the past hanging around.

GOVERNOR MCGOVERN—Wouldn't you say, Mr. McCarthy, that there is a written request on file for every bill you drafted?

MR. MCCARTHY—Yes, there is a written request for every bill, either from the members of the legislature or from the governor. This is very essential. There ought to be a written request or something of that kind. These are the rules: No bills will be drafted in the reference room. There is a separate drafting room, and a separate force has been provided, so you can go into one room and look up your material and take it into the other, if you wish. No bill will be drafted or amendment prepared without specific, detailed, written instructions from a member of the legislature. Such instructions must bear the members signature. The draftsmen can offer no suggestions as to the contents of the bill. Our work is technical and clerical; we are not responsible for the rules of the legislature, or the numbering of the sections, either at the time of the introduction or the time of the final passage of the bill.

GOVERNOR CAREY—Don't you make suggestions on the constitutionality?

MR. MCCARTHY—Questions of that sort come up constantly. We see a bill that is evidently unconstitutional, or we think it is. For that matter, I think nobody knows whether in the long run a bill will be unconstitutional or not. It is all a question of the waves of sentiment that pass over the country. When an average lawyer looks at a bill and says it is unconstitutional, he knows nothing about it. Perhaps there are provisions in a bill in conflict with a number of decisions. The draftsmen call the attention of the member to that, and they file a statement with this drafted bill in the box upstairs. That does not get to the other members of the legislature, but it gives notice.

GOVERNOR CAREY—The introducing member sees it?

MR. MCCARTHY—He can do whatever he wishes.

GOVERNOR DUNNE—Those suggestions are always written?

MR. MCCARTHY—That is the rule. Now, it is hard to follow that strict rule, because the farmer in the legislature is at constant disadvantage as time goes on. The constitution of the United States is no longer the document we know as the Constitution; it is the Constitution plus thousands of volumes of decisions. Then there are the state constitutions, and a great mass of decisions, and when the farmer comes in to represent his constituents, he must go throughout that labyrinth. He is at a disadvantage. He wants a certain thing and knows what he wants. If he wants a drainage district fixed up, he tries to get some information on that drainage district, and does the best he can. He may be a man who is not familiar with the English language, as often happens, but he may be a wise man. To carry out his plans he tells the draftsman what he wants. All of his instructions are written out and filed, his name signed to it, a rough draft is given to him, it is marked on the top "Rough draft" as a warning, and he goes out among his friends and says: "Is this what you want?" We will make fifty rough drafts if he wants it. Each one of those rough drafts is filed, with the draftsman's name, the proofreader's name, and the stenographer's name, and it remains on record, and anyone can go up and see whether that man was fooled or not.

GOVERNOR DUNNE—Is the draftsman permitted, under your system to offer any suggestions of any character in reference to the ideas of the bill?

MR. MCCARTHY—Well, now, that is a very hard question to answer. Sometimes a draftsman sitting there sees something obviously wrong, and he would be a stupid fool if he did not say: "Mr. Smith, I just want to call your attention to that." But that cannot be done to any great extent. He is on dangerous ground. Smith is jealous of his prerogatives, and knows whether that fellow is abusing his privileges or not. A legislature is generally composed of pretty intelligent fellows, who know very much what they want, and who are not going to take things from a lot of draftsmen.

I want to say this to you, gentlemen, because I want to show you that this drafting department can be safeguarded and be made a part of an efficient piece of machinery in dealing with the present day questions, and that there is no reason why there should be any particular man to develop a system. In most of the states in which the question of legislative drafting has come up, unfortunately, the right kind of men are not appointed to these positions. The appointee is some old lawyer who is so saturated with the English common law that he never looked forward in his life, but always looked backward to some precedent, or he is an ex-judge. Sometimes some little girl librarian and some utterly impossible man both of whom are insufficiently paid are placed in charge. The appointments I make are unchallenged. For fourteen years the appointments in the library upstairs have been made absolutely without political consideration, or any other consideration except ability. There are two governors of the state here at the present time, as well as the secretary of the Civil Service Commission, and they know that what I am saying is true. There are men of political convictions entirely different from the majority of the people of this state working upstairs and they will work there as long as I am in charge, provided they do their work well. And I thank goodness for that feeling in our state. I am proud to say that partisan politics does not enter here. We have sitting over there a democrat who at one time was elected to the Senate by the democrats and who is now head of the Civil Service Commission of Wisconsin under a republican administration.

I say, gentlemen, in the long fight, going back through the ages, between the law of the judges, the decisions entered by the courts

and the law of the people built through the constitution and the statute there is no other solution. You cannot put the written law in the place of the unwritten law. The unwritten law, either through the economic findings of a commission, reading the word "reasonable" into a finding on a piece of machinery, or through the interpretation of the word "reasonable" by a court, must exist to round out the written law; but the time is coming when we must build up the law which is nearest to the people,—or at least give it more emphasis than it has been given in the past, either in our law schools or by our thinkers.

The American Bar Association just had a meeting. Senator Root did me the honor to praise this department here. He called the attention of the Bar Association to the fact that we can improve our law making. He says:

"Many of our statutes are drawn artificially, carelessly, ignorantly. Their terms are so vague, uncertain, doubtful, that they breed litigation inevitably. There are certain specific measures by which American legislation can be greatly improved. One is the establishment of the Reference Library for the use of each legislative body, with a competent library force, to furnish promptly to the legislators statistics, data, information of all kind pertinent to proposed measures. Another is the establishment of a drafting bureau, or employment of expert counsel subject to be called upon by the legislature and its committees to put in proper form measures that are desired, so that they will be drawn with reference to previous legislation and existing decisions of the courts."

At Washington, the Federal Government has just established a legislative department. All over the world this kind of thing is coming. James Bryce has written extensively on it. We have had the experienced help of the most prominent statesmen today in the work of helping us to build up the basic principles of drafting, and to aid generally in our little experiment here.

On motion, duly made, seconded and unanimously carried, the Conference adjourned until two o'clock P. M., November 13, 1914.

## AFTERNOON SESSION

The meeting was called to order at two o'clock p. m. by Former Governor Davidson.

FORMER GOVERNOR DAVIDSON—The Conference will please come to order.

I think it is of great benefit to the people of this country that the governors meet and discuss public questions. These meetings must result in greater uniformity of state action and in great good to the people because of these exchanges of experience. It is interesting to say the least to observe you men at the helm studying the organization and methods of government in the different states as you meet at the different state capitals. We are one people and except for formal purposes the imaginary lines dividing us should be obliterated. This is the ideal organization to accomplish this end.

I will not take up your time with any remarks—it is very limited. I will now call on Professor Emery, the dairy and food commissioner of this state, to talk to you.

PROFESSOR J. Q. EMERY (State Dairy and Food Commissioner)—Mr. Chairman, Gentlemen of the Conference: It was my understanding, when I was invited to come here, that I was to answer any questions any gentlemen, a member of this Conference, might desire to ask, and I had not anticipated a speech was expected from me. I shall be glad to answer any questions in regard to my work, as far as I can.

I am aware you all have dairy and food departments in your states, with most of whose officers I have personal acquaintance. I may say that the dairy and food department of Wisconsin was among the early departments to be organized, organized quite a number of years before the national government took any action in the enactment of the so-called national food law, and no doubt because of the pioneer states in this work that law was placed upon the national statute books. Massachusetts and Ohio led in the way of this work in this country, adapting their statutes from the English laws.

As President Cleveland remarked on one occasion, it was not merely a theory that confronted the American people, or the

people of this state, when these laws were adopted, but it was a condition calling for remedy. Grave evils grown up called for action. When the states had conferred charter powers upon companies of men, corporations, by which there came to be an aggregation of capital, to a certain extent, some degree of impersonality, it certainly was a logical consequence that the states should not leave each individual member of that state to the mercy or the rapacity of those great corporations, those great commercial interests.

Now, I have no doubt you gentlemen are aware of the many particulars of the almost unbelievable adulterations of the foods of this country. To such an extent had these grown that I am prepared to say, weighing my words with great care, that I do not think these interests would stop at the introduction of anything into the food of the people so long as they could find a market at profitable remuneration for those foods. My experience comes from analyses in our laboratory, and the acquaintance I have had with other men in this work.

In Wisconsin this work started with the dairy men, and, in one sense, it was selfish, in behalf of their own interests, although the dairy laws of Wisconsin have never directly sought to "promote" the dairy interests, except to the extent that the securing of purity and honesty in food products promotes that industry. It is my judgment that those are the corner stones, or foundations of any great industry of this kind. When I speak of the dairy interests of Wisconsin, you will better understand me if I hold this chart before you for a moment. There are over 3,000 creameries and cheese factories and condensories in the state of Wisconsin. The red dots represent the cheese industry of the state; the black dots represent the creamery industry of the state. There are some combined creameries and cheese factories, and they are represented by combined black and red dots, and the star represents the condensories. You will grasp the immensity of this interest in this state when I tell you there are more than a thousand more cheese factories, creameries and condensories in the state of Wisconsin than in the combined bordering states of Michigan, Illinois, Iowa and Minnesota.

It was found in the early days that dairy products were being adulterated. By certain devices men took the natural fat out



of the milk to be manufactured into cheese, substituted hog's fat, and tried to palm off the product as cheese. Because of this practice, the confidence in Wisconsin cheese was destroyed, a splendid market that had been obtained in England was utterly destroyed, and the cheese industry was well nigh destroyed in the state. The sale was greatly impaired. It was affirmed by the Wisconsin Dairyman's Association, in a resolution calling for the enactment of a law for the establishment of a dairy and food department, that similar adulterations were being placed in butter; and that an artificially colored imitation was being made from hog's fat, and other combinations, put in the form of butter and sold to the people as genuine butter. Milk that was being sold to the people of the state was being doped with chemical preservatives. And that resolution declared these adulterations were widespread, and that there was also widespread adulteration in the food of the people. This resolution was passed in two successive meetings of our association, the Wisconsin Dairy-men's Association, which was one of the powerful organizations in the state in its early history, and whose resulting influences are being felt widespread throughout the state and the United States today.

Governor Hoard, in 1889, recommended the establishment of a dairy and food department, and the department was established for the purpose of enforcing laws guaranteeing the honesty and the purity, primarily, of dairy products, and also of the general food of the people. But it was not until 1897 that the first general food law was enacted by the state. There had been food laws of a certain kind, making it a misdemeanor for anybody "knowingly" to adulterate food or drink, etc., but there was no one specifically authorized to enforce that statute, and, as the New York Court of Appeals said in one of the early cases that came before it, that the adulteration of food had grown to such an extent as to menace the health and the safety of the state. They, at the same time, called attention to the fact that laws for redressing these evils that relied upon knowledge or intent were of no avail, and in such emergency, under such conditions, laws would be justified that laid the entire responsibility for the soundness and the purity of the article of food sold, upon the seller of that article. And from that day until this, food laws

throughout this country have proceeded upon that theory. Upon any other theory they would be like a rope of sand. You cannot prove, of course, that the person selling this article of food intended to adulterate it, and the courts have held that the evil consequences are as great to the public, whether the party selling this or manufacturing it knew or not, and it is for the protection of the people that these laws are enacted and enforced.

As I say, all of you people have established dairy and food departments in your own state. I am very familiar with nearly all of these. I have personal acquaintance with nearly every dairy and food commissioner of this country, and I cannot presume that you are not familiar with this work and with the duties of the work. I will say that there are some differences in the various states in regard to these laws.

May I read just a paragraph from a letter I received this morning from a gentlemen in California, a gentleman who was a teacher for a long time in this state, and for sixteen or seventeen years president of one of our state normal schools. Writing to me, he said—he wrote from Pasadena, California—

“In way of just encouragement you may understand that in all cities in this vicinity Wisconsin cheese is sold at a retail price of 28 cents per pound, the highest of all cheeses offered. Retail dealers declare that the Wisconsin make runs in such uniform excellence in quality that lower priced goods win away few customers when once Wisconsin has been used.”

Wisconsin cheese is sold in every state in the Union. In the South it has a very large market and has no real competitor. This condition I will not undertake to say is due entirely to the work of the dairy and food department. On the Hill there is a dairy school established, the first dairy school upon this continent. That institution came as the result of the activities of that wonderful group of men comprising the Wisconsin Dairymen's Association, and in that institution instruction is given for the production of a fine quality of cheese and butter. Dean Henry once said to me: “I had to do the pioneer work; it was for me to prepare the plans, to discover the pedagogy, the methods of teaching these young men how to do these things in cheesemaking, in buttermaking, in other lines of agricultural improvement, and” he said, “this was pioneer work; there was nothing in this

country to copy from." When this had been established others came here, saw what we had done, and then they went home to adopt this or to improve upon it, as they might deem best. But that dairy school has had a very large and useful effect, beneficial effect, in promoting the growth of Wisconsin dairy interests. At the same time great benefit has been derived by the constant going to these cheese factories and these creameries of men in the dairy and food department who are placed there as the result of a rigid civil service competitive examination, men who must be experts in this line of work, men who themselves have reached the highest attainment in this work in the factories. When they go there, with the instruments and the appliances with which they are provided, they look into the sanitary conditions, and they find them unsanitary and sometimes, too many times, we have had to bring them into court and fine them for maintaining a cheese factory or a creamery in an unclean, unsanitary condition. That seems unthinkable, but, gentlemen, the truth is that has existed, and we have had to clean them up sometimes by the use of the court. These men go through all of this, and correct where they find defective methods, and incidentally there has been instruction given by these men, instruction in all the varied lines of the technical work of the dairy industry. I say that the dairy and food department has had a large influence in bringing the dairy industry to its present status. The dairy interests have been promoted by improving conditions and thereby improving the quality of the products.

Perhaps I may, with propriety, state that a few years ago the question arose in our own minds, those of us who were working in this department: "What is the effect of our work." And so I asked my two assistants to make an investigation,—one of them is a skilled cheese maker, thoroughly acquainted with the cheese dealers, the dealers who are buying at wholesale the Wisconsin product, and the other a skillful buttermaker and acquainted with those dealing in Wisconsin butter, to ascertain what in the dealers' judgment was the effect of our work upon the cheese and butter industry. The first question they asked these men, not all of them, but a representative number, for we were seeking to get at a fair statement of results if there was any improvement in the quality of butter and cheese, due directly to the work of

the dairy and food department, and the representative number of these wholesale dealers in cheese and butter, some of these men who had begun here in Wisconsin as pioneer farmers and knew conditions from the first, men who in 1873 helped to organize the Wisconsin Dairymen's Association and who were thoroughly conversant with all conditions, agreed, without a dissenting voice, that it had had a marked influence in improving Wisconsin cheese, because your product in dairying can never be better than the materials going to make that product. If the material is inferior, the product will also be inferior. The same thing was said in regard to the butter production. There was no disagreement. The second question was: "To what extent do you think the farmers, the patrons of cheese factories and creameries, are being benefitted? How much a pound are they getting more for their cheese and more for their butter than they would get if it were not for the direct work of the Dairy and Food Department?" The answer came: "It is a very difficult thing to answer." Surely, we were willing to concede that. The lowest estimate made was one cent a pound. From there it went to five cents a pound. Figuring on the basis of one cent a pound gained, according to the consensus of opinion of these wholesale dealers in Wisconsin cheese and Wisconsin butter, these men buying these products and putting them in storage and selling them to the people all over the country, last year three and a half million dollars went to the farmers and patrons of Wisconsin cheese factories and creameries, due to the work of the dairy and food department.

As confirmatory of that contention I cite the figures of the Year Book of the Department of Agriculture. For four successive years 1910-1913, inclusive, the price of Wisconsin butter was quoted from  $1\frac{1}{4}$  cents to  $3\frac{1}{2}$  cents higher per pound to the farmers, at the beginning of each month of those years, than to the farmers of any of those states bordering on the state of Wisconsin. I refer to this as one of the lines of work, and I refer to this because at the present time there is no state of the Union where the dairy work in the special lines of butter and cheese and condensed milk equals in volume that of the state of Wisconsin. While New York produced dairy products, including market milk, as shown by the last United States census, somewhat

in excess, of Wisconsin, New York in that census yielded to Wisconsin in the volume of cheese, butter and condensed milk.

When we came to the food laws, as I said, this condition was found—it has been found all over this country by those who have eyes and want to see—that there was tremendous, I wish I could get a stronger word and then I should not tell the truth, adulteration of the food of the people. That is an outstanding, stubborn fact. Tremendous adulteration of the food of the people! Why, only within the last week there came a statement to my ears from a gentleman who got it first hand, coming from wholesale dealers in the city of Madison, that the Wisconsin Dairy and Food Department saved each year on a single item of maple syrup and maple sugar alone, more than the entire annual cost of the department, and he cited firms in Chicago and other cities that I might mention, whom we would not today any more think of passing out adulterated foods than we would think you gentlemen would pass out counterfeit money. And yet in those early days it was a common practice for those large concerns in Chicago and other large cities that I could mention, to sell an adulterated maple syrup and an adulterated maple sugar as genuine maple sugar and maple syrup.

That is only one commodity. I could go on and mention others in the same way. I am simply quoting a remark coming from a wholesale dealer in Madison who has been dealing for a long time, to reinforce the proposition that if the individual citizen must defend his rights against these powerful organizations of wealth which the state sanctions, that he is put to tremendous disadvantage. That is the contest, because, gentlemen, when, as Mr. McCarthy suggested this morning, democracy finds itself outraged, and that is a moderate term for the practices of food adulteration that have been rampant throughout this country—when democracy finds itself outraged through the adulteration of its foods and goes to Congress or goes to the state legislature, whom does democracy find? I know whom democracy finds. It finds the organized food interests of this country. Their seat is New York City. I want to tell you gentlemen, Governors of these great states, that there cannot be a food bill introduced into a legislature in this Union, a state legislature in this Union, that that bill is not reported to the headquarters of those powerful

organizations, and then their men are paid to see that if the bill does not meet with their approval, that it is killed. I have met some of those gentlemen within the walls of this capitol.

I say, then, that the enactment and the enforcement of food laws from any just standpoint, is for the protection of the great consuming public against organizations that have been sanctioned, that have been authorized by the laws of the state, and I repeat that if the legislatures of the states will confer such unlimited powers upon organizations, then it behooves those states to provide some just instrument for protecting the private citizen against undue aggression upon his rights and upon his interests.

GOVERNOR AMMONS—What is the method of your work in your department here?

PROFESSOR EMERY—The food law or the dairy law, particularly?

GOVERNOR AMMONS—Yes, the dairy law particularly. We are very much interested out our way, as to how you work and how you accomplish what you do.

PROFESSOR EMERY—In the dairy work we have a number of inspectors besides my assistants. These men go to these creameries or cheese factories—they are the centers. They are provided with appliances, apparatus for understanding everything that goes on in those places. They may go there voluntarily, or they may go there upon request. In a very, very large number of cases they go upon request. For instance, here comes a request: "We find our cheese upon the shelves rotting; send us an inspector to tell us what is the matter." Well, at the outset we had a great deal of trouble discovering what was the matter, and Dean Russell was called in to aid, and we found the cause in certain microbes there, and we found unsanitary conditions were responsible. Here is an article of food that is being prepared in an unsuitable condition, in an inferior condition, an unfit condition for human food, and the inspector is sent there to investigate the conditions. He finds in 99 cases out of 100 that unsanitary conditions, the handling in foul cans, dirty cans, has been the cause of this. We will find in some of the large cheese making establishments that \$2,000 or \$3,000 a month is being lost and when this is remedied they go on their way rejoicing.

That is one phase of the work.

GOVERNOR AMMONS—What do you do with the dairies themselves?

PROFESSOR EMERY—You will understand, of course, if we should undertake to go from dairy to dairy all over the state we should have an enormous task. This cheese factory or creamery is the center of our inspection for cheese factory and dairy work, and so when this man goes, and many, many times they leave their rooms at four o'clock in the morning and travel six or eight miles in order to get to the cheese factory in time, they inspect the taking in of the milk, and observe the condition of the cans, observe the condition of the milk, and in later years, in the last three or four years, we have had what we call sediment tests, through which we run this milk to discover any visible dirt there, and, gentlemen, we have found plenty of it. At the beginning, my instructions were that probably these men were not aware of the condition, and the inspectors were told not to bring prosecution in the first instance against these men, but to show them the character of the milk they are producing. There is a representative pint of milk, and they can see the barnyard filth that is on the test disc. This is followed up again very quickly, and if conditions are not corrected then those gentlemen are invited to tell the court why they persist in doing that sort of thing, furnishing adulterated milk to be made into food for the people.

GOVERNOR AMMONS—Have you regulation of the dairy itself, the inspection of cows as to their health?

PROFESSOR EMERY—That comes under the state veterinarian's department.

GOVERNOR AMMONS—It does not touch your department at all?

PROFESSOR EMERY—Except this: My department would be required, if we knew milk was being furnished from diseased cows, to take action, but we have not been furnished with a veterinarian to find out whether the cows are diseased or not.

GOVERNOR AMMONS—Does the veterinarian's department look after the sanitary condition of the dairies where cows are kept?

PROFESSOR EMERY—I suppose that under existing conditions that come under our jurisdiction, but where we find this milk in an unclean, an unsanitary condition, we make our way out to the herd and out to the dairies and find the condition there. We shall not find all of these. We are taking one of the worst conditions.

GOVERNOR BALDWIN—What are the advantages of having these two bureaus? It would seem to an outsider one would be better.

PROFESSOR EMERY—Well (to Governor McGovern): How shall I answer that, Governor?

GOVERNOR MCGOVERN—My answer would be that you can scarcely so organize a government that bureaus will not in one place or another overlap. If, for instance, you should consolidate with the state veterinarian's department, you would run out into the agricultural societies and the board of managers of the State Fair, and you never could come to a point where you would feel that you embraced everything. In other words, there are no two departments in government where there is no interchange or no inter-relation in functions.

PROFESSOR EMERY—And we have certain fundamental conditions upon which we must base that classification. The state veterinarian's functions are based upon the classification of disease among the animals of various kinds; not only cows, but horses and swine, and the prevention of the spread of disease, and the relief of it; while our work, the core of it, is the purity of food for the people. Now, starting with these fundamental conditions, the time will eventually come when there is some overlapping.

GOVERNOR MCGOVERN—Just now the veterinarian's department is engaged in exterminating the foot and mouth disease. That directly has nothing to do with anything that concerns your department, unless it be possibly the milk of a cow so affected with this disease as to affect the purity of the food.

PROFESSOR EMERY—Now, in case our department knew there was a herd furnishing milk to a creamery or cheese factory that had this disease, we should say to them, of course: "You better not do that."

GOVERNOR SPRY—May I ask what you do with the milk of cows that are affected with tuberculosis?

PROFESSOR EMERY—That is rejected.

GOVERNOR SPRY—What method have you of ascertaining whether the cow is affected?

PROFESSOR EMERY—There we must depend upon the action of the state veterinarian; in that respect we are in the closest of co-operation.



GOVERNOR SPRY—Have you any idea of the percentage of the cows of Wisconsin affected with that disease?

PROFESSOR EMERY—Wisconsin began early to eradicate tuberculosis from its herds. There has been some reaction, but there was a great elimination of tuberculosis in the herds of Wisconsin. There are a large number of breeders of pure bred cattle in this state. Their own self-interest requires it, and a great many of the people having dairy herds voluntarily are having the animals tested for this disease.

GOVERNOR DUNNE—Do you do it by proclamation of the governor or by law?

PROFESSOR EMERY—It is done by law.

GOVERNOR STEWART—Have you a regulation as to who shall give a certificate? Now, I have come in contact in our state with this condition because of the laxity of some of these other states back this way, especially these dairy states. The purchaser from our Western country comes to the middle West and buys dairy stock. He gets his stock and the certificate of the veterinarian, but when he gets out to our state and has the cattle tested they react, and then he is confronted with the fact that he had been furnished a worthless certificate, not an official certificate. In other words, he has the guarantee of no state behind that certificate. What is your condition as to that?

PROFESSOR EMERY—I think the law here requires these tests shall be made by men who have been examined and are certified to by the state veterinarian.

GOVERNOR DUNNE—Assistant state veterinarians?

PROFESSOR EMERY—Well, to that extent. Their fitness is determined by the state veterinarian and he clothes them with that authority. (to Governor McGovern): Am I not correct?

GOVERNOR MCGOVERN—The deputy state veterinarians are appointed by the state veterinarian, and he is primarily answerable for their conduct.

GOVERNOR STEWART—The point he made is distinguished from your point. He said the state veterinarian examines the other veterinarians. He doesn't make them deputies, and therefore they do not give official certificates. Their qualifications are attested to by the state veterinarian. Then they, if they choose to do these things, can, without in any way binding the state

make a false certificate and deceive somebody from a neighboring state, and that is why we have suffered.

PROFESSOR EMERY—I believe the State Department of Wisconsin is so thoroughly organized that a certificate issued by any person, authorized by the state veterinarian to send stock into another state, certifying that cattle have been tuberculin tested without reaction, can be relied upon.

GOVERNOR STEWART—Last year after the stock show in Chicago a prominent citizen of our state bought five prize winners; one a prize bull. He received best certificates. He brought the animals to Montana and tested them there. Three of them reacted.

PROFESSOR EMERY—Did they come from Wisconsin?

GOVERNOR STEWART—Illinois.

GOVERNOR DUNNE—That is true. The condition of affairs up to about a year ago in Illinois was so bad that the state was practically quarantined by other states. So we have had to take up the question with a great deal of thoroughness, and have compelled each veterinarian in the state to pass a civil service examination, and now he gets a certificate as deputy veterinarian, and the state of Illinois has been redeemed in the eyes of the other states.

GOVERNOR STEWART—What have you done with Dorsey?

GOVERNOR DUNNE—We quarantined Dorsey's section.

PROFESSOR EMERY—Any other questions you wish to ask?

GOVERNOR MCGOVERN—Say a word about the weights and measures before you close.

PROFESSOR EMERY—In 1911, upon the recommendation of Governor McGovern, a weights and measures department was added to the dairy and food department of Wisconsin. It was an enormous work. The governor was unquestionably led to his recommendation to the legislature by the result of an investigation that was made by the United States Bureau of Standards at Washington, D. C., throughout thirty-three states in the Union, Wisconsin among them. In the report of its investigation, out of some number of thousands, I cannot give the number, approximately 40% of the scales were found incorrect. Something like 20% of all the weights were found incorrect, and something like 35% of the measures were found incorrect.

Now, the question arose in the establishment of this department whether it should be an independent department, or whether the state should simply supervise the work and let the counties do the actual testing and sealing. The original bill introduced in the legislature provided for a state bureau of weights and measures. After a long drawn out contest it was decided by the committee on state affairs to report in favor of the bill establishing this department, and that the dairy and food commissioner be made ex-officio state superintendent of weights and measures. Instead of providing that the county should have sealers of weights and measures, it provided that cities having 5,000 or more inhabitants should have city sealers of weights and measures, and then that all the work of inspecting, sealing, and testing of weights and measures outside of these thirty-five or thirty-six cities should be done by the state dairy and food department.

We were unacquainted with the work. We had to learn the work. This we proceeded to do. All the employes of this department, except the head of the department, and one stenographer and one assistant, came into the department through a civil service examination, which is thorough and which is effective in securing competent men. The question of politics must not enter; it must not in any way influence the selection of these people. Neither can the question of religion be considered. We consider only the question of efficiency.

We went to work, and while our force has never yet been adequate to do entirely all this work, we have found that the recommendations of the governor of need for such a bureau were much more than justified. Individual cases can be cited. For instance, the ordinary wagon scales were found, on first inspection approximately 50% incorrect. Now, when you consider the stock that is being weighed over those scales when the farmers bring it in, and the hay, and the other produce, you will understand something of the meaning of that work, and that a just balance is the thing that is needed in any square deal. This has brought us into the groceries and the meat markets, where foods are dispensed, and where we have found a very large percentage, on first inspection, wrong. Now, I do not want to be misunderstood on that. I do not think I would be justified in saying that that

large number of men were deliberately and purposely misusing those scales. They had no means of knowing whether those scales were right or not. If you are not familiar with this work in any way that statement may surprise you, but that is the fact in the case. And I want to say throughout the state, with very few exceptions, that our men in those establishments have been very cordially welcomed and their work has been approved.

Some of them have been found wrong under circumstances which point unconditionally and unmistakably to the fact that it was intended they should be. Sometimes we have heard criticism, and you may imagine where that comes from.

GOVERNOR MCGOVERN—You mean they intended they should be wrong, by the manufacturer or owner?

PROFESSOR EMERY—By the owner. We have found the weights plugged. We have found them bored. We have found measures with double bottoms. We have found measures with the tops cut off. A number of devices. I would have to give them by the hundred to you, but a large number of the defects were, as I say, simply due to the fact that the owners did not know how to adjust them. It was not their intention, it was not their purpose to cheat. That class of dealers has uniformly welcomed our people to their establishments, and now we are constantly in demand, and being requested to send men to test scales here and there. It is beyond our power to meet the demands.

I want to direct your attention to one phase of the work: In the line of the creameries of the state, where the value of the cream is determined by the Babcock test. That is, what the patron receives from these creameries is determined by the use of the Babcock test. We found a very large percentage of these scales used for weighing this cream absolutely wrong. We have to condemn outright certain types almost in universal use. You will understand that better when I explain to you that in weighing out a few grams, 9 grams or 18 grams, scales were found where it took from 5 to 7 drops of cream to move the pointer over one space. The value of the cream is determined by such instruments as that. What have we done? We have absolutely repudiated those. The legislature conferred on me authority to prescribe conditions upon which those shall be condemned or sealed, and I absolutely refused to seal such scales as that. They

are unjust balances. Up to six months ago, I was receiving numerous complaints from patrons of creameries to the effect that they were not getting a fair deal on the test of their cream. It was troublesome. We had made exhaustive investigations, and finally, after we got into the weights and measures work, we found the trouble, very largely at least, was in these defective scales and in these defective cream tests. So, since we have been doing this weights and measures work, for the last year and a half, while I am not quoting exact statistics, it does not seem to me I receive one complaint where I received formerly a dozen, and I attribute it to the degree of accuracy of the instruments being used.

That is characteristic.

I want to say another thing: Here was a certain line of work in groceries and meat markets, and the like of that, where the people were concerned, where they all made purchases, and our first work was along that line, and not until later, not until comparatively recently, did we realize the need of testing druggists' scales. These men in Wisconsin are licensed to deal out medicine under the theory that they are skillful men in their line. I want to say to you that we have found no worse lot of scales anywhere than we have found in the drug and jewelers' establishments. If there is any work in the interest of the people, next to health, I know not what is more important than that of the proper adjustment of the scales and the weights and the measures that are an indispensable condition to the square deal.

GOVERNOR SPRY—Are you ever confronted with short weight butter?

PROFESSOR EMERY—Yes, sir.

GOVERNOR SPRY—How do you remedy that?

PROFESSOR EMERY—Well, we do it by persistent work. The net weight laws, state and national, will remedy that.

GOVERNOR WALSH—Are the deputies appointed by your board?

PROFESSOR EMERY—By the commissioner, with the approval and consent of the governor.

GOVERNOR WALSH—The local communities, then, have nothing to do with it?

PROFESSOR EMERY—No. I am not saying our way is the best.

FORMER GOVERNOR DAVIDSON—Your men are under the civil service.

PROFESSOR EMERY—Yes, we have a civil service examination, but the question he asks me is this: Ours are state officials. In Massachusetts they have a state superintendent of weights and measures, but the men who do the actual testing and sealing in the field are local men. You (Governor Walsh) go to the town with it. In New York they go to the county. This proposition came up to us at the outset, proposing to have the county sealers, but the legislature decided, aside from about thirty-five cities, to have this work done under the supervision of the office of the superintendent of weights and measures.

GOVERNOR WALSH—Do you go out into the stores with your testing machines?

PROFESSOR EMERY—Yes. We have to go there. In Massachusetts your sealers travel in automobiles.

GOVERNOR WALSH—The testing machine is right on the back of the automobile and the sealer goes right to the store.

PROFESSOR EMERY—Yes. This is understood better, of course, when you know that to do the testing of a wagon scale a man must carry with him not less than a thousand pounds of weight, and he is somewhat loaded up.

GOVERNOR WALSH—Until recently our local sealers were political appointees; they now come under the civil service.

GOVERNOR SPRY—I would like to ask just one more question: Do you find that you get more efficient service from the men appointed under your civil service regulations than you do from a state political appointment?

PROFESSOR EMERY—It is my judgment, after sixteen years in the capitol, that the state civil service of Wisconsin has improved the public service of the state immensely, and I would not think for a moment of having the state of Wisconsin go back to the political pull as a basis of appointment.

GOVERNOR SPRY—Our appointments are all made by the governor, or the party who may be in power, whether they are sealers of weights and measures, or food and dairy men, or whatever they are, and I must confess I find you can obtain just as honest men who have some party affiliation as those who have not, and our men are giving entire satisfaction not alone to the men who appoint them, but to the people in whose interests they are working. I should be unwilling to believe that because a man believes

in and belongs to some political party it disqualifies him for good service. I do not think that is correct.

GOVERNOR MCGOVERN—Governor Spry, isn't there a difference in different departments? Now, in Mr. Emery's department what is wanted is a chemist or an expert in cheese-making or butter making.

GOVERNOR BYRNE—It is technical.

GOVERNOR MCGOVERN—It is technical work, and the examination will disclose better than anything else the qualifications of the applicant. Now, take for illustration the opposite field, the attorney general's department. I doubt that we have succeeded in securing, under the civil service there, any more efficient help than it was customary to secure under the old plan, because the head of that department naturally wanted an efficient office force and he had ample self-interest to prompt him in selecting men who were good lawyers. It required no civil service examination to find out who were the good lawyers. So I think the excellence of civil service in practical operation depends on the work of the department, the work upon which it operates.

GOVERNOR CAREY—I want to ask you what do you do with cattle that are affected with disease?

PROFESSOR EMERY—That would come entirely under the state veterinarian, but if I found that milk was being sold or being delivered to a creamery or cheese factory from those cattle I would take measures to stop it.

FORMER GOVERNOR DAVIDSON—Mr. Carey, the state veterinarian is in the room; if you wish to question him I will call him over here.

GOVERNOR MCGOVERN—If they are suffering from contagious disease, Governor Carey, they are slaughtered.

GOVERNOR CAREY—We have had a good deal of trouble. A man by the name of Bolan, a young man, put his entire fortune in some cattle he bought in Wisconsin. Over half the herd he bought had to be killed. Unfortunately we find he has no remedy. The cattle having been brought into the state just before the killing, we did not pay for them. We only pay for stock that has been in the state for some time, and where there is no evidence whatever that the animal was affected before it came in. These cattle came from Wisconsin. These cattle were shipped into Wisconsin from the state of Illinois.

GOVERNOR DUNNE—Well, of course, Chicago is the biggest stock farm in the United States.

GOVERNOR CAREY—I have lots of sympathy for you because we send all of ours down there.

GOVERNOR MCGOVERN—Probably came from Wyoming.

PROFESSOR EMERY—Over that matter you refer to, I have absolutely no jurisdiction.

GOVERNOR CAREY—We recently discovered a veterinarian who was doing a good big business in our state. He went over to Canada and he bought a diploma for which he paid the magnificent sum of \$5. Mr. Dorsey had a veterinarian who would do something or other, put a tag on the animals to the effect that they had stood the tuberculin test, and the honest and unsophisticated men of our country went down there and paid high prices for those animals.

GOVERNOR DUNNE—That has been corrected. The civil service commission of our state has required every veterinarian to pass an examination, and unless he passes that efficiency examination and an examination as to his character at the same time, he gets no diploma, and when he gives a certificate now he can give it as an assistant veterinarian.

GOVERNOR CAREY—I say now this is the most important thing before us. In some of the Western states, Colorado, Wyoming, Idaho, the western part of the Dakotas, it is a matter of great importance right now that there should be no evasion, and everybody should be engaged in stamping out disease, because it is a question of economy among the people with reference to meats, and with us where we have probably forty millions of dollars invested in livestock alone, why, it is life and death to us. We are taking every precaution. I think we have found only one herd, and that was a herd discovered up in Montana, I think, being shipped west from the East, affected with the foot and mouth disease, and you cannot do anything with it, except destroy the animal.

While we may speak about these things in rather a jocular way, it is most important today that in every direction every state in the American Union should pull together, and they should not object to the most drastic measures to stamp out this disease.



GOVERNOR DUNNE—Well, you know we closed the stock yards in Chicago for the first time in fifty years. And the Federal veterinarian, in concert with the state veterinarian, has been condemning all herds where any infection has been found. I understand the Federal veterinarian is ordering destroyed all the herds where the infection was found, except that Fat Stock Show prize herd that is strictly quarantined in Chicago at the present time, and on which some of the scientists are working to ascertain whether or not there is any possible cure or specific for the disease.

GOVERNOR AMMONS—Mr. Chairman, I just want to attest to the importance of Governor Carey's suggestion, because the people in my state are putting in creameries and condensories, and beginning in a small way the manufacture of cheese, and they are coming here for the foundation of the dairy herds as they change over from the beef type of cattle to the dairy breed. We had one man who bought over 300 head back East, and practically all had to be destroyed. This was not because of the inefficiency of the man who had inspected them there and fooled him, but it was because it was done criminally. They knew what the cattle were, and yet they gave certificates of health, and I would not say anything now but for this purpose: You are opening up a new market in the West for your young dairy stock, and it is to the interests of the Eastern states to see to it that there is no fraud, and that whenever a certificate is given here that it is based on merit, in order that our people may not be suspicious, as some of them have grown.

PROFESSOR EMERY—As I said, the whole subject, the matter of determining disease, and the like of that, is one over which I have absolutely no jurisdiction, as an officer. That is the state veterinarian's work. I am interested in that matter as a citizen of the state of Wisconsin, and I am especially interested in it as a breeder of pure bred stock, and I once had the misfortune to introduce into my herd a tubercular animal coming from the East, and I would not now think of introducing an animal into my herd that I had not kept in quarantine for a sufficient time to determine her health and have her tested before releasing her into the herd. I think I can speak for the breeders of the state of Wisconsin—I am pretty well acquainted with them—and I be-

lieve I am speaking the truth when I say they are priding themselves on keeping their herds absolutely free from tuberculosis and other diseases, and they are seeking markets in other states. They expect to go up or down as they have their herds in good condition and send healthy cattle into those states.

GOVERNOR MCGOVERN—Mr. Emery, it is also true it is a difficult thing to determine whether or not an animal has tuberculosis, at times.

PROFESSOR EMERY—At times, certainly. But I think the quarantine for a certain length of time after arrival into the state is a sufficient precaution.

GOVERNOR DUNNE—Mr. Chairman, I understood the state veterinarian was here in the room. Upon the recommendation of the state veterinarian of our state, and after a conference with the Bureau of Animal Industry at Washington, I was advised by both that the so-called tuberculin test was a fairly scientific and accurate test. In other words, I think they told me, in 97% of the cases the test was accurate. I therefore issued a proclamation prohibiting the importation of cattle into the state of Illinois from some thirty-six different states unless they had been subjected to the tuberculin test. I was afraid to include all the states because our supreme court held that such would be an unreasonable exercise of the proclamation power, so I covered thirty-six states. Since that time I have been assailed quite vigorously by stock dealers in Chicago, and tremendous pressure has been urged upon me to recall that proclamation. Of course, believing in the scientific accuracy of the tuberculin test, I resolutely and steadfastly refused. I would like to get the opinion of your state veterinarian as to whether or not that tuberculin test is a fairly accurate and scientific test.

MR. O. H. ELIASON (State Veterinarian)—The tuberculin test is fairly accurate if you have the backing of the man who owns the cattle. What I mean by that is a previous dose of tuberculin injected into a cow will make that cow immune from any test which you may apply at some time later.

GOVERNOR CAREY—It does not cure?

MR. ELIASON—It does not cure.

GOVERNOR STEWART—That is what they call “plugging,” isn't it?

MR. ELIASON—That is “plugging.”

GOVERNOR STEWART—A common trick that those who are wise practice on the veterinarians.

MR. ELIASON—If they want to be dishonest, that is what they do.

GOVERNOR STEWART—They plug them and fool him on the test.

MR. ELIASON—Yes.

GOVERNOR MCGOVERN—For about sixty days after the first test has been made the cow will not react to the ordinary tuberculin test.

MR. ELIASON—No, not under sixty days. We have conducted quite a series of experiments along that line. We have numerous requests for allowing an animal to be re-tested. Since I took this office I have taken the stand that if the poor cow reacted once, for goodness sake let her alone. Now, it is hard enough to get her to react once, without getting her to react again, but several were insistent. Now, I said this: We will let you read the testing, but the animal must pass two successive tests before we will release her, and almost invariably on the third test we would get it. The repeated doses of tuberculin into a tuberculous animal or a tuberculous body, that is, large doses, has the tendency to gradually undermine the vitality of the animal, and by the third time the disease has progressed to such a stage that she will react very well.

GOVERNOR DUNNE—In other words, if the cow has not been treated before that the tuberculin test is fairly and scientifically accurate.

MR. ELIASON—Scientifically accurate.

GOVERNOR DUNNE—But if she is “plugged” before that, or treated by the owner, then it is unreliable.

MR. ELIASON—Yes.

GOVERNOR MCGOVERN—In a case of that kind, if a second and third test is applied, the third test shows the presence of the disease, does it, fairly accurately?

MR. ELIASON—Yes, we find the third application is fairly accurate.

GOVERNOR DUNNE—That includes the first so-called plugging and the second and third tests?

MR. ELIASON—Yes.

PROFESSOR EMERY—Is there any other method by which you can determine the presence of tuberculosis, other than the tuberculin test?

MR. ELIASON—It is the best means we have at hand.

GOVERNOR SPRY—Have you discovered any cure for it?

MR. ELIASON—No sir.

GOVERNOR SPRY—What do you do with the animals? Kill them?

MR. ELIASON—They are killed, unless put in permanent quarantine under the Borin system.

GOVERNOR SPRY—That is difficult to maintain.

MR. ELIASON—It is difficult to maintain, and, unless the animal is very valuable, we do not permit it.

GOVERNOR SPRY—She is liable to transmit the disease to her offspring?

MR. ELIASON—If it is a bad case.

GOVERNOR SPRY—Does the state allow any compensation for these animals that are slaughtered?

MR. ELIASON—Yes sir. The maximum is \$75. If we find no tubercular lesions on inspection of the slaughtered animal, we pay them the full appraised value, and if the animal is affected the owner gets one-half.

GOVERNOR SPRY—If we were to pay the full value—we of course slaughter some cattle, Jerseys brought from the states surrounding, that cost \$1,500 a head—we would have been put out of business.

GOVERNOR DUNNE—Isn't it true, Doctor, that some cases where they indicate on the tuberculin test that they are tubercular that the meat is fit for human consumption?

MR. ELIASON—Certainly. More than 70% of the meat that we slaughter at this time is fit for food.

GOVERNOR DUNNE—That is, the disease has not proceeded far enough to make the food unfit for human consumption.

MR. ELIASON—Yes.

GOVERNOR SPRY—About what percentage of your cattle do you find affected; those that you examine? I ask that question so as to make a comparison with my own state. We have found perhaps 7% of those inspected are affected with the disease.

MR. ELIASON—I think we average about the same here.

GOVERNOR DUNNE—What percentage?

MR. ELIASON—Somewhere around 7% to 10%. It is very hard to make an estimate of this at the present time for the reason that a great deal of the testing that is done is done for interstate shipment purposes. Of course, these cattle are a little better than the ordinary run of cattle. A good many of our buyers have outlined their territory, and they know where they can buy the cattle without getting bit. They go back to the same place; they stay away from the suspected places. We now very frequently locate a herd in this way: Every animal must be tagged, and we also require the man shipping, if he is to get remuneration for his slaughtered animal, to locate where that animal came from, and we follow up and order a test of the herd.

GOVERNOR DUNNE—Governor Stewart, you asked me a question a short time ago in relation to the right of the governor in our state to remove the sheriff for nonfeasance. The governor in the state of Illinois has the right to remove any official that he himself by the constitution or the laws appoints, on the grounds of incompetency or neglect of duty, and the supreme court has held he himself, the governor, is the sole judge of the neglect of duty or incompetency.

But the governor does not appoint the sheriff. The sheriffs, as probably in your own state, are elected, and until recently we had no law that empowered the governor to remove a sheriff for neglect of duty. But five or six years ago, I think, a sheriff permitted a man to be taken from his custody, from jail, and lynched, and public opinion was so strong in our state against that sort of procedure that a special law was passed authorizing the governor to remove the sheriff if any prisoner was taken from his custody and lynched, the law expressly stating that the fact of the lynching was *prima facie* evidence of his dereliction of duty, and that within ten or fifteen days after the lynching took place and after his suspension and removal, he could apply for a hearing before the governor, and if he could convince the governor on that hearing that he himself did everything that was possible to prevent the release of the prisoner and his lynching, he would be restored. And in the meantime the duties of the sheriff were imposed by law on the coroner. The coroner succeeds the sheriff and acts in his place until a special election is called.

GOVERNOR STEWART—Could he not be removed for any other reason?

GOVERNOR DUNNE—No; only in cases of lynching.

GOVERNOR STEWART—The object I had in view in asking the question was this: In my state last summer I ran against this kind of a proposition: The sheriff of a given county failed and refused to keep peace. There was great rioting within one of our large cities. Although there was quite a large sheriff's force, a large force of deputies, and a large police force, they did not seem to understand that it was their duty to keep peace, and they allowed all kinds of riotous disorders to occur. The people appealed to me, as governor, for relief. I found this condition of affairs to exist: That the constitution of our state and the statutes imposed upon the governor the duty to enforce the laws of the state. The very term "governor" implies that he is the man who shall govern, and I found that further than the constitutional imposition and the statutory imposition of that duty, that the governor was not in authority to do other than simply to request and insist that the law requiring officers to do their duty should be enforced. I did find, however, that there were statutes providing for the summary, so-called summary removal of the sheriff and the mayor of the city, and I proceeded under those statutes. We filed our charges in a district court and the offending officers were tried before a judge without a jury, in a somewhat summary way, but it took a month to get through and have the case decided by the judge in the district court. After that there was the right of appeal to the Supreme Court, and it took a couple of weeks or more, although the Supreme Court gave the case precedence. So we were practically six weeks in getting these people out of office and in getting any relief. Then a new sheriff was elected by the board of county commissioners, or the county board as it is called in some other states, and the board of aldermen of the city elected a new mayor, and we proceeded along.

Now, I have understood, although I have not gone into the question carefully to look at the laws of other states, that in some states there are provisions which admit of the governor, upon being convinced that the sheriff or other peace officers are not doing their duty, suspending or removing the offending officer,

and somebody else may be put in his place and proceed with the enforcement of the law; the removed officer to be given a trial afterward, but in the interim somebody else will act in his stead.

Take my own case: If it had been possible for me to summarily suspend the sheriff and the mayor I could have saved the state at least a hundred to one hundred and twenty-five thousand dollars, because the only arm or force that I had at my disposal with which to put down a condition of that kind was the National Guard, the militia. I was forced to send a detachment of militia, some five or six hundred in number, in there to take charge of the situation and it was necessary to keep them there until the sheriff's office and the mayor's office were reformed and a force of local authorities put in charge who were willing to enforce the law.

Now, that is like taking a sledge hammer to break an egg. It costs a good deal of money to get the militia out and this is sometimes more than is necessary in a case of that kind, because in order to utilize them the governor has to declare martial law, or send them in in the aid of the sheriff. There are two things the governor can do. He may send the troops in at request of the sheriff, or declare martial law. Well, it would have been folly to send troops in to the aid of the sheriff who had refused to do his duty. Therefore, I had to resort to the other horn of the dilemma and declare martial law so that my representatives could take charge. My idea about that was that if we could get this suspension law through and then have a law like they have in some of the states whereby there would be a state police force that would be adequate to handle disturbances of that kind and that would be more or less subject to the direction of the governor of the state, he could then handle a riotous condition of that kind at its inception, with a very few men, and probably right it and remove the offending official, and send in some person to direct a representative government. In this way he could save the people of the state a lot of money. That is the reason I asked the question, Governor Dunne. I think the statute he has mentioned in his state would not meet our condition.

GOVERNOR DUNNE—Simply a lynch law.

GOVERNOR STEWART—I would like to hear from some of the other governors to see what their ideas are on that subject, see

whether they have any laws which govern such a contingency as that, and whether they know how any such statutes could or would work out.

GOVERNOR MCGOVERN—Mr. Chairman, in Wisconsin the governor has the power to remove county officers except the county clerk and the clerk of the courts, upon the filing of written charges against them, and opportunity afforded—

GOVERNOR-ELECT CARLSON—I did not hear that.

GOVERNOR MCGOVERN—To remove county officers except the county clerk and clerk of the circuit court. The county clerk is removed by the county board and the clerk of the circuit court by the circuit judge. The other county officers are removable by the governor upon written charges being preferred against them, and opportunity for hearing being given. An exception to this general rule exists in the case of the district attorney, and our law on this subject, it seems to me, Governor Stewart, meets your question squarely. When charges are filed against a district attorney, either before the governor or in any court, importing misconduct, he is at once subject to suspension and, as I construe the statute, it is the duty of the governor to suspend him, and appoint someone else in his stead.

After the suspension there is a hearing upon the charges, and of course if sufficient ground appears he is removed. Otherwise he is reinstated. But from the moment the charge is made he is suspended. The reason for this, I assume, is that the district attorney is the officer who acts first in the prosecution of crime and in the enforcement of the law. I do not see why it should not apply to the sheriff as well. I can think of no reason why these two officers should not be singled out from the others and made liable to suspension from the time the charges are filed against them.

GOVERNOR STEWART—The district attorney was equally culpable in this case, but I overlooked mentioning that.

GOVERNOR AMMONS—Our experience goes still farther than that. Other officials, not only the sheriff who may directly fail to do his duty, and the district attorney who may turn criminals out faster than you can lock them up, on their own recognizance often, when guilty of the greatest of crimes, bother us. During this recent trouble in Colorado we had officials in departments of



the state over which the governor has no control whatever, who were inciting insurrection and who went out and helped buy guns to fight the state. One of these went so far, I am reliably informed, as to say that he would assist, not only take up arms himself, but assist in destroying the governor, shooting him down like a dog, if any further troops were sent in to secure the restoration of order in the state.

Now, I imagine a great many of these things grow out of defective laws. I recall a very pertinent statement made by Governor Mann of Virginia. I do not recall the subject upon which he was talking, but he made this statement: "If the governors only had the power the people think they have!" I am held responsible, not only in my own state, but all over the country, for the keeping of order in Colorado; yet I have no power over many other state officers. I have to turn over to my successor and to the people an indebtedness of three-quarters of a million dollars due very much to this lack of power. We have had the loss of over two hundred lives, all kinds of property has been destroyed and our state has been vilified to an extent almost beyond belief. Much of this is due to the fact that certain officials could act absolutely independent of the authority of the governor of the state, and stand out against him, and there was no relief.

And right here—I am not to be a member of this Conference any longer as the governor of a state, I want to ask one question and that is: If the governor is to be the head of the state government and to be held responsible, should not our state organization be similar to the Federal organization where the president is elected and chooses those who stand and work with him in his administration? The governor should not be held responsible unless he has the power to carry out his policies. Who would think of electing as president of the United States a man who is a member of a certain party, and at the same time elect a member of some other party as treasurer, who would not pay the bills if they did not satisfy him, or elect an attorney general who was opposed to the president; or elect a secretary of labor who not only would not act in harmony with the president, but who would block or try to block every move that he made? Who would think of such a thing? And why isn't it just as proper in the states

of the Union which are republican, the same as the general government is, why shouldn't their chief executive have the power to carry out and enforce the laws that are made by the legislature, just exactly the same as the president of the United States, and with as much co-operation. It seems to me perfectly reasonable that that condition should exist. I have told you what happened in Colorado because of this lack of co-operation and power, and the other states are similarly situated, most of them. In Colorado we do not often elect a straight ticket. This year Governor Carlson was elected by a plurality of 40,000, while on the other ticket the attorney general has just as great a plurality to his credit. This industrial situation brought this about. I admit you cannot have that sort of effective and harmonious administration which is necessary for the best welfare of any state under our present plan, and I am going to see to it that at least a movement is started in Colorado to bring about this most needed of all reforms.

GOVERNOR WALSH—Governor Dunne, I would like to ask you if you have any control over the state commissions.

GOVERNOR DUNNE—They are appointed by the governor and can be removed by the governor.

GOVERNOR WALSH—Then the only power you have is the power of suggestion, by reason of the fact you have appointed them and their term expires during your term of office and you can remove them.

GOVERNOR DUNNE—That is all. The Supreme Court has held that the judge of the incompetency of an official is the governor himself, and he is not even required to give them a hearing.

GOVERNOR WALSH—Your legislature can then next year take away even the power of appointment from you and appoint every member of every administrative board and remove them.

GOVERNOR DUNNE—The constitution places certain appointments in the hands of the governor with the approval of the senate.

GOVERNOR WALSH—Whatever power you have over a commission is simply delegated to you by the legislature; not constitutional.

GOVERNOR DUNNE—That is all. Every commission is created by statute, and of course with reference to those the statute would

govern as to the commission. The commissioners are appointed, as a rule, by the governor, and their names submitted to and approved by the senate.

GOVERNOR MCGOVERN—That is the rule in Wisconsin, our constitution providing what officers are elective and what ones are appointive, and then concluding with the statements that other offices or those to be created shall be filled as the legislature may direct.

FORMER-GOVERNOR DAVIDSON—Well, gentlemen, if we are through with this subject, we will call upon Mr. Smith, president of the state board of control.

GOVERNOR AMMONS—I want to know, to commence with, how you make purchases for your public institutions in Wisconsin, Mr. Smith.

MR. RALPH E. SMITH (President State Board of Control)—Mr. Chairman and Governors: Purchases in Wisconsin are made in two days. There are certain purchases made by the Board of Control on the specification basis. Meats are bought quarterly on the specification basis with open competition. The same is true of groceries. Blankets are bought yearly. Flour is bought as it is needed. There are many other articles bought strictly on the specification basis in open competition.

GOVERNOR AMMONS—You have a purchasing agent?

MR. SMITH—No, the Board of Control acts as purchasing agent.

GOVERNOR STEWART—How is the Board of Control constituted?

MR. SMITH—The Board of Control is composed of five members appointed by the governor for a term of five years. They have charge of all the charitable and penal institutions of the state, and inspectional powers over semi-state and county institutions. They act as the probation department. They are also the parole board of the state.

GOVERNOR AMMONS—The board grants paroles?

MR. SMITH—Yes sir; with the consent of the governor.

GOVERNOR AMMONS—How do you do that? You make recommendation to the governor that a certain man should be paroled, and then he acts on that recommendation?

MR. SMITH—Yes, we parole and the governor approves or disapproves. Our action is taken after a hearing at the prison and after presentation of the applicant himself, after notice to the

judge and the district attorney, and investigation of the previous character of the prisoner made by the parole officer.

GOVERNOR AMMONS—Does the board act as a pardon board also?

MR. SMITH—No sir; the constitution provides that pardoning power is vested in the governor.

GOVERNOR MCGOVERN—In the matter of paroles your board paroles and the governor approves.

MR. SMITH—Yes.

GOVERNOR AMMONS—Yours is not so much a recommendation as it is a parole subject to the approval of the governor; the parole does not take effect until the governor approves it?

GOVERNOR MCGOVERN—No.

GOVERNOR SPRY—Can you commute sentence?

MR. SMITH—No.

GOVERNOR WALSH—Do you investigate pardon cases for the governor?

MR. SMITH—At his request, occasionally.

GOVERNOR WALSH—He is not obliged to submit those cases to you?

MR. SMITH—No.

GOVERNOR WALSH—So he still retains full power to grant pardons regardless of your opinion or judgment?

MR. SMITH—Yes.

GOVERNOR WALSH—Does your board itself petition for the parole of prisoners?

MR. SMITH—No sir; the petition is made by the prisoner himself.

GOVERNOR WALSH—Suppose you went to an institution and your attention was called to a deserving case. Could you not initiate the petition for parole?

MR. SMITH—We have the power to act if we want to, but of course it cannot be effective until a notice has been given to the district attorney and the judge who committed the prisoner, and the parole has been approved by the governor.

GOVERNOR WALSH—I understand your board has also control of the purchasing of supplies for the state.

MR. SMITH—Yes.

GOVERNOR WALSH—Have you a purchasing agent separate from the board?

MR. SMITH—No sir. The board acts as its own purchasing agent.

GOVERNOR WALSH—Have you been able to work out any system of supplying one institution with the commodities made at another institution?

MR. SMITH—The last legislature passed an act providing for prison industries to be established under the supervision of the board of control. It gives to the board absolute and full control over prison industries, and the only limitation is the limitation by the legislature in the amount of appropriation. Under that law we have the power to manufacture for state use, on state accounts, or for the open market.

GOVERNOR WALSH—Heretofore you have had no industries in your prison?

MR. SMITH—We have had the contract system, and we have the power in the reformatory to establish trade schools and under the guise of a trade school we have been building the institution buildings. The boys in the reformatory built the reformatory.

GOVERNOR WALSH—How long have you had a central purchasing body?

MR. SMITH—The board has been in existence thirty-three years.

GOVERNOR WALSH—I mean for the purpose of supplies.

MR. SMITH—They have had that power from the beginning. Only the last three or four years we have been buying on specification basis.

GOVERNOR WALSH—Have you any figures to show what saving has been made by centralized buying, rather than buying by the official of each institution?

MR. SMITH—It is difficult to show the saving, except as you make comparison with the other states. For instance, it is difficult to show the saving in meat when the price of meat has increased 100% in eight years.

GOVERNOR WALSH—How about coal and flour?

MR. SMITH—We are buying coal on a B. T. U. basis, British Thermal Unit Basis. We have been buying on that basis for the last three or four years and have made a saving of ten to twenty thousand dollars by that method of purchase. We buy the flour

on the specification basis. Up to two years ago we bought the "first patent." We discovered the "first patent" of one concern might be the "straight" of another concern. Therefore, we adopted a specification; every car of flour that is bought is tested by the Howard testing laboratory in Minneapolis. Just before war was declared we purchased 2,600 barrels of flour, what is known to some manufacturers as "straight" and others as a "medium patent" at \$3.75 a barrel, and that same flour, as a matter of fact, was selling at nearly \$5 a barrel in the market.

GOVERNOR WALSH—Your board has control of the insane asylums, the charitable institutions, and all the correctional institutions?

MR. SMITH—No, not exactly that. All of the state institutions. Wisconsin has a unique system for caring for the chronic insane. We provide the chronic insane shall be cared for in county institutions. There are thirty-five county insane asylums. The acute insane are cared for at the state hospitals. When a patient has reached that stage where apparently they are no longer responsive to treatment, they are transferred to county insane asylums.

GOVERNOR MCGOVERN—The hospitals are state institutions.

MR. SMITH—Yes, except the Milwaukee county hospital for the care of the insane. The county institutions are under the supervision of the Board of Control, supervision and inspection, and under the law it is our duty to inspect them quarterly.

GOVERNOR WALSH—You issue orders?

MR. SMITH—Yes sir; we issue orders as to the number that may be confined in a room. We have reports as to temperatures of the rooms during the winter, etc.

GOVERNOR BALDWIN—You do not buy for them?

MR. SMITH—No sir.

GOVERNOR BALDWIN—Have you a central warehouse?

MR. SMITH—No sir.

GOVERNOR BALDWIN—Are the purchases delivered on your order?

MR. SMITH—Yes sir; wherever we designate.

GOVERNOR BALDWIN—Have you ever, during the history of this state, had a state warehouse?

MR. SMITH—No sir.

GOVERNOR BYRNE—What are the conditions you find generally in the state hospitals?

MR. SMITH—Perhaps my statement would not be worth as much as that of the commissioners of other states who come to investigate. Just recently, the last year, the state of New York sent a commission to investigate Wisconsin's method of care of the insane, and I would refer you to the report of that investigation. I want to say this, however: I think there is no state in the Union making better provision for the chronic insane than the state of Wisconsin, and I make that statement on the authority of those who have sent commissions to this state to investigate our institutions.

GOVERNOR BYRNE—In your opinion the county system of taking care of the insane is a success?

MR. SMITH—Yes.

GOVERNOR AMMONS—Do your convicts do any work on the roads?

MR. SMITH—Yes sir; they began last June.

GOVERNOR AMMONS—Under what system?

MR. SMITH—Board of Control.

GOVERNOR AMMONS—Does the county pay for the keep, or the state?

MR. SMITH—The state. In 1912 our present governor sent a delegate to the state of Colorado to investigate the system of working convicts on the highways; a report and recommendation was made to the legislature that they invest \$25,000 in experimental work. The experiment was made last summer and it was a success. Not a convict has attempted to escape, and the road work has been, I am told by highway engineers, the equal or superior of that done by free labor.

GOVERNOR SPRY—Do you have authority to contract prison labor?

MR. SMITH—Yes sir.

GOVERNOR SPRY—Do you find that profitable?

MR. SMITH—It depends on what you call profitable. We are getting 65 cents a day for our men. It costs 42½ cents a day to maintain them.

GOVERNOR SPRY—How do you find your labor organizations in relation to that? Do they oppose it? Do they oppose having convict labor enter into competition with them?

MR. SMITH—Yes.

GOVERNOR SPRY—Do you find that a difficult matter?

MR. SMITH—Thus far we have not met with much opposition from organized labor, because organized labor understands we are not in favor of the contract system; until some better system presents itself we are compelled to use it. In the reformatory, and the prison combined we have a thousand prisoners. At the present time there are only three hundred working on the contract system at the prison, and somewhere about forty to fifty at the reformatory. Now, I want to say concerning the contract system that there are differences in contracts. Under our present contract there is being paid by the contractors to the prisoners' individual account, from \$18,000 to \$20,000 a year.

GOVERNOR SPRY—Represented by how much per day?

MR. SMITH—That depends on the industry of the individual.

GOVERNOR SPRY—What would it average?

MR. SMITH—I cannot give you the average, but I can give you some maximums. Some men have made as high as \$20 to \$25 a month. Other men have made nothing, do not care to make anything.

GOVERNOR SPRY—It depends on their occupation and the manner they take care of it.

MR. SMITH—Yes; and the individual himself.

GOVERNOR SPRY—His own industry?

MR. SMITH—Yes.

GOVERNOR STEWART—Did you ever try the system of allowing them credit?

MR. SMITH—Yes.

GOVERNOR STEWART—Instead of paroling them outright, just as a general matter, did you ever give them a parole after they have earned it?

MR. SMITH—You mean earned it because of money?

GOVERNOR STEWART—No, because of labor.

MR. SMITH—We cannot parole a man until he has served half his term. After he has served half his term we may parole him, but do not unless we feel he will behave himself.

GOVERNOR STEWART—A man is not paroled until he has served half his term, in our state. If he is a life termer he has to serve the equivalent of twenty-five years with good time. That makes



him parolable in thirteen years and nine months. A man who has a term sentence is parolable when he has served half his time. Instead of paroling him immediately upon his becoming eligible, or at any time subsequent thereto, we say to him: "You go on the roads, go into this other work we have provided, and we will give you one day good time credit for every three days work you do, in addition to whatever compensation you get." The result of it is he earns his parole pretty quickly. We find the men will work and work hard to get one day good time for three days work.

MR. SMITH—We are going to recommend a similar provision to the next legislature, because if there is anything a prisoner wants it is release, and while you may pay him 50 cents a day, a day's liberty is worth more than \$10 to him, and if the state of Wisconsin were to provide, as the governor suggested, a reduction of time for good work while on his honor, it will promote the honor system and promote the reformation of the prisoner.

GOVERNOR SPRY—You mean while on his honor, out on parole?

MR. SMITH—While under service in prison. For instance, here may be a man who has a twenty year term. He could not be paroled until he served ten years. He may have served two years and really might make good out on the road. Place him on the road; by good conduct he reduces that ten year period.

GOVERNOR BYRNE—That time is in addition to any other good time.

MR. SMITH—Yes.

GOVERNOR STEWART—In addition to the statutory good time.

MR. SMITH—Yes.

GOVERNOR SPRY—We have the indeterminate sentence and have no minimum sentence any more. We could parole the man two days after he went in to prison if we wanted to. Our men on the road receive ten days for every thirty days work performed, in addition to their regular good time. A man sentenced to ten years serves five years and ten months.

GOVERNOR BYRNE—Do I understand you to say a man is paroled when he has served half his sentence? Do you mean half of the whole time he is sentenced for?

MR. SMITH—Half of the full time he is sentenced for.

GOVERNOR BYRNE—A man sentenced to twenty years under those circumstances could not be paroled for ten years.

MR. SMITH—Yes. I say that is wrong.

GOVERNOR SPRY—Yes, that is wrong.

GOVERNOR STEWART—That is where we are up against it. A young fellow gets a twenty year sentence, and he goes out and serves five or six years, and yet we cannot do a thing for him until he serves ten years in all.

GOVERNOR SPRY—You can commute the sentence.

GOVERNOR STEWART—Well, I can and I do. But I cannot without advertising.

GOVERNOR MCGOVERN—Governor Byrne, with the power of commutation in the governor, does it make much difference which plan you follow?

GOVERNOR BYRNE—If I had it my way I would take the prisoners who are not criminally inclined and parole them very shortly. I would not wait for any time.

GOVERNOR STEWART—The trouble about commutation in my state is this: The governor has to advertise in a newspaper. He has to go before the board of pardons, and he gets a reputation of a "pardoning governor," which he really has not earned. As a matter of fact, he is putting himself in the position of pardoning too freely.

GOVERNOR BYRNE—Did I understand you to say before your board could grant parole official notice must be served on the judge and state's attorney, the same as in the case of a pardon?

MR. SMITH—Yes, ten day notice. The object of that is so that the judge or district attorney may furnish to the board of parole any information which may have come to them which, in their opinion, would be of benefit to the Board of Control in the consideration of the application for parole.

GOVERNOR BYRNE—We require the prosecuting attorney and judge who signed the commitment papers to make a full statement of the case, which is placed on file in the penitentiary.

GOVERNOR SPRY—We also require that. We have got a history of the case.

MR. SMITH—We have practically the same thing. At the last session of the legislature we asked for a law providing for the filing of the information, together with a copy of the record, and

in the case of a trial, the testimony in the case. Of course, where there is a plea of guilty there is not much to the record, but in the case of a trial there must be filed with the information and the record a transcript of the testimony in the case.

GOVERNOR BYRNE—What is your experience with these convictions on pleas of guilty?

MR. SMITH—In what way?

GOVERNOR BYRNE—Well, I have this experience: With us it seems to me that a great many of our state's attorneys are young men. It is a very common thing when a man starts to practice to seek election as state's attorney and he is often elected. I think that is perhaps a cause for what I am going to speak of. A man is arrested, charged with some crime. The state's attorney, for various reasons, seems to make every effort to induce him to plead guilty. Perhaps these inexperienced men are a little afraid to go to trial and want to make a record, and I find it is a very common thing. For instance, just recently there came to my notice a man who was serving a two years sentence, charged with having forged a check for \$5. He pleaded guilty. Many cases of that kind come to my attention, where the plea of guilty seems to be almost inexcusable. In this way there seem to get into our penitentiary many young men and boys charged with almost trivial offenses. They apply for pardons and the evidence is often clear that they should be pardoned.

GOVERNOR WALSH—Governor, is not the fault with the judges?

GOVERNOR BYRNE—I have thought this: I am not a lawyer or a judge, but I have felt there should be a law forbidding a judge to accept a plea of guilty until he looks into the circumstances fully and thoroughly.

MR. SMITH—Now, if I may answer that question: I was prosecuting attorney myself for a little over four years, and I was engaged in the business of getting guilty men to plead guilty.

GOVERNOR STEWART—So was I.

MR. SMITH—And I never asked a man if I had any doubt of his innocence to plead guilty. I was called from the district attorney's office to this work, and immediately I saw the other end of the convict's life, and I can put my finger on a county in the state of Wisconsin where I think a district attorney was wrongfully holding out inducements to arrested men to plead guilty,

making promises he did not keep. Now, I came to that conclusion by meeting fellows in the reformatory from that county, and in the state's prison, who told the same story, and I know they did not get together to fix up a story. I called the attention of the presiding judge to the situation: since that time there has not been any fault to find with convictions from that county.

GOVERNOR WALSH—Do any persons get into your correctional institutions who are not second offenders?

MR. SMITH—Yes.

GOVERNOR WALSH—In Massachusetts a first offender is usually placed on probation rather than committed.

MR. SMITH—We have a probation law, but there are limitations to it. In a case of murder there will be no probation. Then there are men we get from outside who say they are first offenders, and we do not know, and they have no one to recommend them, and we do not put them on probation.

GOVERNOR WALSH—There is no probation in Massachusetts in case of murder, or any other serious crime.

MR. SMITH—Judges are beginning to recognize more and more the value of the probation system.

GOVERNOR STEWART—Have you a suspended sentence law under which first offenders can be paroled immediately after sentence?

MR. SMITH—Yes, that is what we mean by probation. They are placed on probation under the supervision of the state Board of Control. We have our probation officer who finds them a position and supervises them.

GOVERNOR WALSH—Do your parole terms last as long as the original sentence?

MR. SMITH—Reduction by good time provided by law.

GOVERNOR WALSH—When you parole a man how long a time is he kept on parole?

MR. SMITH—Just to the time his term would have expired.

GOVERNOR WALSH—How often does he report to your board?

MR. SMITH—Every month. To the institution, not to the board. The probationer, the man paroled from the bench, reports to the board, but the man paroled from the institution reports to the institution.

GOVERNOR SPRY—For instance, you parole a young man. You cannot very well parole him unless he has some work to go to,

because of the likelihood of his returning to the institution. What do you think of the system whereby we should go to you, for instance, and say: "Are you willing to give this young man employment?" You say: "Yes." You become the responsible party, with bond. The young man, in making his reports to the institution gets your endorsement so the institution knows the report he is making is a substantial one. Do you follow that?

MR. SMITH—Yes.

GOVERNOR CAREY—Do you have a parole master?

MR. SMITH—Yes.

GOVERNOR STEWART—We have, in Montana, a parole officer. It is his duty to look after these persons when turned loose, and we have certain days on which the releases are made. The warden notifies the parole officer he will discharge say a certain number of men. Often the parole officer goes in advance and talks to them and finds out what they want to do, and he will have a job ready for them, or he will take them to a job, help them rustle a job, go to see them and visit them.

GOVERNOR BYRNE—I suppose you always parole people to some work?

MR. SMITH—Yes. No one is released until some work is found for him.

GOVERNOR BYRNE—Your parole officer whose duty it is to look after these men, does he give his entire time to that?

MR. SMITH—Entire time.

GOVERNOR BYRNE—He is supposed to visit them and keep in touch with them?

MR. SMITH—Yes.

GOVERNOR BALDWIN—Doesn't that give a black eye to the man, to have a parole officer call on him?

MR. SMITH—My own idea is it doesn't give him a black eye.

GOVERNOR STEWART—It doesn't.

GOVERNOR BYRNE—It is the conviction that gives the black eye. Simply because a young man has once committed an indiscretion is not proof that he is all bad. My own experience with these parole boys, young boys, has been that a sympathetic officer who will give his time to keeping in touch with them, can be of great assistance.

GOVERNOR STEWART—For Governor Baldwin's information let me say: Where a man gets a black eye is when he travels under false colors. He goes to a farm or factory and finds a job and after awhile it comes out that he is an ex-convict. Immediately he loses caste and may lose his position. Now, our legislature created a state parole commissioner with a salary of \$2,000 a year and traveling expenses, and I looked around to get a man who was capable of handling that position. Immediately there was a great rush of ministers and people of that character. They thought they were well qualified for the position and no doubt they thought they were all right enough from their point of view. But I finally picked out an ex-convict, a man who had served a year in the penitentiary. He had fallen from grace. He had been a good man in his youth but got to drinking, and got in a fight when he was drunk. As a result he served a year in the penitentiary. He came out and never touched a drop afterwards and lived a good moral life enjoying the respect of every one in his community. I appointed him to the position of parole officer. He tells the prospective employer just who the prospective employee is and what he is, and all about him, so there are no unpleasant questions asked and no disappointment because anybody has been deceived. When this officer goes to talk to the boy who has been paroled the fellow cannot say: "Well, you don't know anything about this; you don't know what I am up against." He is able to say: "Yes, I do. I have been in myself. I have gone through and made a man of myself, and I have got the confidence of the governor of the state, have been given this position. I have outlived this shame that was put upon me by my own act." And I find the very fact that that man served a year in the penitentiary has been his strongest factor of usefulness. I want to tell you, of all the appointments I have made since being governor of the state of Montana, I do not know one that has been the cause of as much just pride as the appointment of that ex-convict to that \$2,000 job.

MR. SMITH—Just one thought, gentlemen, in leaving: It has been my pleasure to appear before legislative committees at two sessions of the legislature, asking for moneys. The legislature of Wisconsin has been good, but, if there is anything the member of the board of administration wants to bring to bear on any state

it is this: That the inmate of an insane asylum cannot speak for himself. He is no lobbyist. There is nothing to advertise about his condition. There is nothing to advertise about the condition of the poor inmate of the home for the feeble minded, or the prison or reformatory, or school for the blind, and I believe no governor can do a greater service to the state than to call the attention of the legislature to the condition in his state and ask for money to take care of those condtions. We cannot take too much care of our epileptics and feeble minded.

GOVERNOR SPRY—As a rule, you do not find your legislative bodies at all opposed to making a generous appropriation for the feeble minded?

MR. SMITH—No, not in Wisconsin.

GOVERNOR SPRY—In my state the state auditor and the governor and treasurer are the board of control of the mental hospital there. The legislature has always been so liberal we have always turned back to the state anywhere from \$40,000 to \$100,000. And we have not skimped; put cut flowers in the halls winter and summer, and all that sort of thing.

GOVERNOR WALSH—I do not think commissioners ought to lose sight of the fact, however, when they ask for money for those who are deserving in character, that the moneys often have to come from people who have not the comforts or the means the inmates of those institutions have. The fight to-day is and should be to keep down the expenses of our institutions.

MR. SMITH—Exactly. That is true. However extravagance and necessary expense are not synonymous.

GOVERNOR WALSH—I dare say what is true in my state is true here, that one dollar of every four appropriated by the state government goes to maintain state institutions. We are spending \$6,000,000 a year in the maintenance of state institutions, and the poor people who pay that money have a right to know that they get their money's worth, that no extravagant buildings are built, and that plain, simple, wholesome food is supplied. Luxuries should be avoided.

MR. SMITH—Yes to that they are entitled.

FORMER GOVERNOR DAVIDSON—We will now call on Mr. Dudgeon.

MR. M. S. DUDGEON (Secretary Free Library Commission) — What I have to say is so commonplace and so ordinary and so simple I can tell it to you, I think, inside of three minutes.

Some time ago we investigated the educational conditions, including the opportunities for reading in some rural communities. We sent a man to every one of the homes in a large, sparsely settled township, containing twenty-one families. We found that in four of those families there were no books whatever, not even a Bible. In nine of the twenty-one there was nothing except the Bible. In eleven of the homes there was not even a newspaper or periodical. Not a single adult in the entire town had read a book during an entire year, largely because there were no books of any interest to read, for this was a new settlement. Now, at the same time there was down here in the city of Madison a large historical library, a large university library, a library commission, other libraries of various kinds. As a matter of fact, every one of those settlers up there was a part owner in these libraries down here, and, while these settlers up there had nothing to read 99 out of 100 of these half million books were on the shelves and were doing nothing.

The logic of the situation is very simple. Within the last year the Post Office authorities have admitted books to parcels post. We simply have inaugurated a system of sending books out by parcels post. We have the co-operation of the state historical society, and the university library. We sent out circulars and gave the plan newspaper publicity. Upon a simple request, endorsed by the postmaster or librarian, any individual in the state can get any book in any state library. And we are getting a multitude of most interesting requests from all sorts of people for all sorts of books.

GOVERNOR AMMONS—If a request comes in from the northwest portion of the state how do you distribute them?

MR. DUDGEON—Send them by parcels post.

GOVERNOR AMMONS—And it is sent back the same way?

MR. DUDGEON—Yes.

GOVERNOR AMMONS—Have you lost any books in that way?

MR. DUDGEON—Never have yet. We feel if a man is a responsible resident of the state of Wisconsin and wants a good book, that the probabilities are he is going to be honest enough to return the book.



GOVERNOR SPRY—Have you any identification from the town in which the man resides?

MR. DUDGEON—We ask every man to get an endorsement from a school teacher, a postmaster, or the custodian of one of our traveling libraries. This parcel post delivery is in addition to the travelling library system under which we last year reached eight or nine hundred villages and small cross-roads communities with large boxes of books. These parcel post books reach the man who is too far away from any crossroads to have access even to these traveling libraries. The system is so simple, as I said, it is obvious it should be done, if it is not done everywhere.

GOVERNOR BYRNE—Who pays the cost of transmission?

MR. DUDGEON—We require and they send us the estimated cost. An ordinary book can be sent anywhere in this state for six or eight cents. If the postage sent is excessive we put it in the book and send it back. So the matter can be made easier we have given them a simple form of a letter. Every step is without formality. Unless it is without formality it will be ineffective.

GOVERNOR STEWART—Those are state owned books?

MR. DUDGEON—Yes.

GOVERNOR STEWART—You find the people taking to it very readily?

MR. DUDGEON—Yes. The first request we had was from a boy in a place so far distant we never heard of it. He wanted "Christie Mathewson's Pitching in a Pinch."

FORMER GOVERNOR DAVIDSON—Gentlemen, we will now have the pleasure of listening to Mr. Roemer, the chairman of the Railroad Commission of Wisconsin.

MR. JOHN H. ROEMER (Chairman State Railroad Commission)—Mr. Chairman and Gentlemen of the Conference: The duties of the railroad commission, or of the public service commission of this state are so numerous and varied that the subject would not justify taking up the time necessary to consider the various activities of the Commission. However, I have, in a small compass of four pages, typewritten pages, given a view of the general work that we are doing and the methods that we employ in the more principal matters that come before us for consideration.

The Railroad Commission was organized in 1905. In 1907 the so-called public utilities law of this state was enacted, and in 1913 the water powers act. Under the railroad commission act of 1905 and the amendments thereto numerous duties were imposed upon the commission.

The Wisconsin Commission has disposed of 7,748 cases in the past nine years. In 1913, 1,305 cases were disposed of. These cases, most of them, involved railroad or utility rates.

These cases, it is estimated, have resulted in a net reduction in railroad charges of \$2,173,000 annually, and in utility charges of \$899,164 annually, a total of \$3,072,164 saved to the public annually, while the level of service meanwhile has been much improved. This showing is particularly gratifying considering the generally rising cost of living during this period.

Few people who are not familiar with the railroad or utility businesses realize what a large amount of work is necessary in their regulation in order to secure justice to all the parties concerned and to fulfill the requirements laid down by the courts. Some idea of the extent of this work may be had from a brief description of the procedure necessary in making valuations and in reaching decisions in formal rate cases, two of the most important duties of the commission.

In making any valuation whether of a large or small plant the first step is to obtain a complete inventory of all the property; every item of value from the largest engine or building, down to the smallest item such as pins in cross-arms or paint on a pole must be listed separately with a complete statement of size, kind and quality of material and workmanship and everything that goes to make up an item of cost. To this must be applied a price which will be obtained by a study of the ordinary costs of materials, both general and local, of the type in question over a period of years, the present market price of same, the amount of labor involved in the installation, together with present labor prices, the necessary freight charges, inspection costs, etc. This will then give the reproduction cost new.

To find the reproduction cost less depreciation it is necessary to find the age of the item as well as its probable life, make a study of the condition resulting from its use or misuse, good or poor maintenance, the probable use to which it may be put in the

future, the state of the art as respects the item in question and the adequacy of the unit to continue to fulfill its intended function.

After having determined the reproduction cost as well as the reproduction cost less depreciation of each item it remains to determine the necessary overhead charges such as interest during construction, organization, engineering and inspection, contingencies, insurance and taxes during construction, etc. All of these are necessarily a part of the cost of any piece of property. These costs must be studied in a general way as well as with special reference to the plant under construction.

Rate cases may arise upon complaint, upon petition of the company or upon the Commission's own motion. All complaints, petitions and answers that may be submitted are first analyzed. A public hearing is then held and testimony taken. The testimony, exhibits, lawyers' briefs, and the Company's report to the Commission are next digested, analyzed, and compared, and conflicting statements reconciled in order to arrive at the truth in all matters. The Commission often finds that not sufficient data has been laid before it and makes an audit, or other investigation, on its own behalf, or requests further information from the railroad or utility involved.

A tentative valuation having been made, as outlined above, it must now be examined and completed in the light of the testimony and other information at hand before it may be used as the basis on which to compute a fair return to the investor. Frequently some adjustments are necessary on account of property no longer used and useful, or property not paid for, etc. Bond discounts must be investigated; the amount of "going value," if any, must be determined, which involves an examination of the past values and earning power of the company; depreciation funds and reserves are examined, and an allowance for working capital must be fixed upon. The "book value" is then compared with the "physical value," and the property is examined to see if the investment is normal. In the light of all these data, a final "fair value" is fixed. A fair rate of return upon this value is then determined, and the amount of interest and profits to be included in the cost analysis computed. A depreciation allowance to cover loss by wear and tear must also be computed.

After this point the procedure in a railroad or express case and a utility case differs considerably. With railroads the earnings, expenses, value, operating data, etc., must be divided between the different services; passenger, baggage, mail, express, milk, parlor car, sleeping car, and freight. Each of these is further divided in the case of the larger railroads, between Wisconsin and the rest of the road, and between purely Wisconsin business and all other business. This data for the freight service is further divided between movement, or the actual transportation of goods from place to place, and terminal, or switching, hauling, etc., at the stations. A similar apportionment is made for the express service and occasionally for passenger service of electric railways. It will be seen that this requires many careful apportionments which must be made for several years to be sure to eliminate abnormal conditions. Tentative divisions having thus been made, engineering and statistical tests are often conducted to determine their accuracy. This done, unit costs of so much per ton per mile and so much per ton handled at stations can be computed, on which cost rates could be based. These divisions, for special cases, are often carried farther and the costs involved in handling certain kinds of property are separated out and put on special units, from which cost rates for that property can be more accurately computed.

The cost of service, however, is not the only element to be considered in making rates for common carriers. The rates to be fixed must be compared with either existing rates to determine their effect on competition of different markets and territories and between different products. The ability of the articles in question to bear rates is noted and they are compared with all other articles as to their nature, as raw products or finished articles, their value, their risk of loss or breakage, etc. With all these facts in mind a final rate for one article between one station and another is fixed.

Some of these data can be used in computing any rate, but much of it must be done over for every article between every two stations. When many rates are involved, it is plain what an immense task this is. The recent express rate case, for instance, involved the consideration of at least one million "basing rates." When the Interstate Commerce Commission issued its express

rate decision the basis of express rates was changed and the number of rates much reduced. The final decision of this Commission was made in agreement with the basis of the Interstate Commission, but nevertheless some 130,000 separate rate computations had to be made incident to the final decision.

Returning to a utility case, the same general principles are followed. The earnings, the expenses, value, statistics of use, etc., must be divided, if it is a joint utility, between the different businesses, such as gas, electric and water period. The division must then be continued between the different classes of service as, with an electric plant, for instance, between general lighting, street lighting and power. A further division of expenses is usually made between different classes of expense known as "capacity" "outfit" and "general consumer." These divisions, as in the case of railways, require many careful apportionments, often for several years. From the above data, cost units per kilowatt hour of electric current used, per gallon of water consumed, etc., can be computed, upon which rates can be based. But here, also, the amount which the users of the different services can afford to pay, competitive conditions and the nature of the service in general must be considered and receive due weight in making the rates if the public, as a whole, is to be benefited.

When a tentative rate schedule is decided upon it must be applied to the statistics of the comparison to see if it will yield sufficient and not too much revenue. In order to get the statistics for these computations, and to judge intelligently of the nature of the service, it is frequently necessary to make extensive tabulations and summaries of the quantities of product used, the bills, number of lamps installed, sizes of meters, etc., for all the consumers of the utility affected. One case before the Commission involved the tabulation of such data as this, covering a year, for some 30,000 utility consumers.

Not all cases, of course, involve such extensive studies as outlined here; some, however, are more extensive. Then the scope of the investigations is surprising in most instances. When one considers that much of this is pioneer work, the time and labor required is not surprising.

GOVERNOR STEWART—Mr. Roemer, how are your commissioners chosen?

MR. ROEMER—Our commissioners are chosen by the governor and confirmed by the senate.

GOVERNOR CAREY—What is the total cost of the commission?

MR. ROEMER—\$183,000 a year. The number of employes of the commission is 94.

GOVERNOR WALSH—You regulate and supervise all public service utilities?

MR. ROEMER—All public service utilities in the state, even including municipally owned and operated public utilities.

GOVERNOR WALSH—The expense of our public service commission, which regulates only street railways and railways, is \$200,000, and gas and electric light commissions about \$100,000. Have you provided here for the assessment of the cost of regulating and supervising the railroads and public service corporations?

MR. ROEMER—No, that comes out of the general fund of the state.

GOVERNOR WALSH—Have you an opinion about that?

MR. ROEMER—I have. I think it should be assessed upon the railroads and utilities. They are the ones primarily benefited by the regulation, and should pay for it.

GOVERNOR WALSH—There is no reason why a man who does not use the telephone and has not one should be taxed to pay for the regulation and supervision of telephones.

MR. ROEMER—I do not believe in that.

GOVERNOR STEWART—Do you think you get better results by having an appointive commission rather than an elective one?

MR. ROEMER—I would be apprehensive if we had an elective commission the commission might get into politics. There would be political commissions under an elective system.

GOVERNOR STEWART—We have an elective commission, one term expiring every two years, filled by political parties. I have always felt yours is a better method.

MR. ROEMER—I dare say you would have difficulty in this state finding anyone to undertake the work of the commission here if he was obliged to make a campaign for election. The position is not a sinecure.

We have a statistical department, engineering department, accounting department and tariff department. The engineering

department is devoted to water, gas and electricity. We also have a service department connected with the engineering department. The state is divided into five service districts, and we have one inspector in each of those districts constantly, making secret inspections to ascertain whether the utilities are complying with the standards of the commission.

GOVERNOR-ELECT KENDRICK—Do you decide cases individually?

MR. ROEMER—No, we confer over them and decide them. Of course, all legal questions I decide, because I am the only lawyer on the commission.

GOVERNOR CAREY—How many members are there on the commission?

MR. ROEMER—Three members of the commission.

GOVERNOR BALDWIN—Could you tell us approximately how much of your \$190,000 goes to valuation of the plants?

MR. ROEMER—More than a third goes to valuation of the plants. Our law requires us to make a physical valuation of every public utility operating in the state. Of course, we have not attempted to do that, because we have been kept busy hearing rate complaints which have been made. The first thing we do, when a rate complaint comes in, is to make a physical valuation of the property, and afterwards have a hearing to determine what the fair value of the property under consideration is for capital purposes.

GOVERNOR BALDWIN—Is there often a wide margin between the result that you arrive at and the result presented by the public service company?

MR. ROEMER—In the physical valuation the margin is surprisingly small. And that is due to this: When the commission makes its tentative valuation, a copy is given to the utility and a copy to the municipality. Each of those takes it up with their engineer. They go over that. Then there is a conference called between the engineers of the commission and the engineers of the utility on one side and the engineers of the municipality on the other, and they eliminate undisputed items. They agree upon almost everything. Sometimes there are merely three or four items that cannot be agreed upon, and which must be submitted to the commission on evidence for determination.

GOVERNOR-ELECT KENDRICK—Once you have a physical valuation it is not necessary to revalue.

MR. ROEMER—No, we bring it down to date by the accounting system.

GOVERNOR WALSH—Do you control the issue of new capitalization?

MR. ROEMER—We do.

GOVERNOR WALSH—That is one of your most important functions.

MR. ROEMER—That is one of our most important functions, yes. And in my judgment a very questionable one.

GOVERNOR WALSH—I suppose, Mr. Commissioner, the objection to the election of a railroad commission such as yours, public service commission, is that the people whom you serve do not see your work, but the men whom you obstruct do know when you are obstructing them, and are vigilant in their opposition. In other words, a governor usually hears from the people that the commissioner has been opposing the performance of public utility, and does not hear very much from the thousands of people whose rights he has been safeguarding.

MR. ROEMER—That has been our experience.

GOVERNOR-ELECT KENDRICK—Do we understand, Mr. Commissioner, that your commission is to deal with traffic, either passenger or freight, that originates beyond the borders of your state?

MR. ROEMER—When we come to dealing with the question of establishing domestic or interstate rates we have to consider what is purely intrastate and what interstate traffic, and make separation of the same. That would be necessary to come to a valid conclusion.

GOVERNOR WALSH—Mr. Chairman, I would like to ask a question before I go. When are these notes to be transcribed?

SECRETARY RILEY—Just as soon as possible.

GOVERNOR WALSH—And then printed and sent to the members of the Conference?

SECRETARY RILEY—Yes.

GOVERNOR WALSH—Isn't it possible to send typewritten copies of the proceedings to the governors within two or three weeks, and not wait for the printed volume; because some of the gov-



ernors here, perhaps all of them, are to prepare messages to the legislatures early in January, and these notes may be of service and value in aiding them. Is there any reason why the governors cannot have copies of the notes, typewritten copies, within a few weeks?

MR. RILEY—None at all.

GOVERNOR CAREY—Mr. Chairman, I desire to offer the following resolution:

*Resolved*, That the governors of the Conference, in appreciation of the generous hospitality and the uniformly kind treatment extended to them by the governor of Wisconsin, by the mayor, by the Board of Commerce, and the citizens of Madison, by the president and other of the faculty and Board of Regents of the University of Wisconsin, desire to express their most sincere thanks.

That they desire to express their thanks to the press of Madison for the fair and impartial publication of the daily proceedings of the Conference.

I move the adoption of this resolution.

GOVERNOR WALSH—I second the motion.

FORMER GOVERNOR DAVIDSON—Gentlemen, you have heard the resolution read. Are you ready for its adoption?

GOVERNOR CAREY—I, as one of the parting members, will come back to the next Conference as an honorary member, and I desire myself to express thanks to the governor of the state of Wisconsin for his indefatigable work at all times during the four years I have been a member of this Conference. Governor McGovern has always been on hand and has always taken on himself, I think, more than his share of work, and I think the Conferences of the future will have reason to regret his absence, and such men as Governor Baldwin and a number of others I am not going to name who have attended whenever a Conference has been held. I think, as a member of this Conference in the past, that you will have to change your time somewhat. Now, this Conference has had a very small attendance because it was called immediately after the biennial election. There are a number of governors not present, who, on the day this Conference convened, could not tell from the returns received whether or not they were elected or re-elected. These men thought they could do

the best service to themselves by remaining at home and watching returns, which seems to be necessary at times in our American politics.

Our being in Madison certainly has been delightful and pleasant, and I think every governor present feels like congratulating the people of the city of Madison on the beauty of their city and on the fact that they have this great university, this wonderful capitol, which is nearing completion. The capitol will be a model for hundreds of years to come, and will then be an honor to the men who conceived it, to the architect and the people who are building it.

FORMER GOVERNOR DAVIDSON—Those who are in favor of the resolution will say aye; contrary no. The ayes have it.

In the absence of Governor McGovern I wish to thank you gentlemen for coming to the state of Wisconsin and holding this Conference. The people of this state are proud indeed to have you, and I am sure we have been delighted in every way to do what little we could to entertain you, and before we close this Conference I wish to thank you in behalf of the people of the state of Wisconsin and the city of Madison for your presence here, and I hope you will come back at some future time.

What is the further pleasure of the Conference?

Upon motion of Governor Baldwin, seconded by Governor Stewart, the Conference adjourned *sine die*.

## ADDENDA

### LETTER FROM GOVERNOR HUNT OF ARIZONA.

Fellow Governors:

It gives me very great regret that I am unable to be with you, for I am sure the experience would be not only pleasurable, but enlightening, broadening and helpful to me.

I should be glad, also, for such purpose as the information might serve, to recite some of the experiences of the youngest state in the Union—to present an outline, meagre and unsatisfactory though it would be, of the results which have followed the adoption of Arizona's policy of progressivism. For Arizona is a progressive state—proud, and possibly a little boastful, of it.

Being progressive and proud of it, and the last state admitted into the Union—having the experience of all the older states before her, their wisdom to profit by, their errors for warnings—she figured from the outset that there was no good reason why she should not, in the direction of her aims, the ordering of her laws, the conduct of her internal machinery and the management of her business affairs, equal and possibly excel her sister commonwealths, with some allowances, of course, for the temporary roughness which invariably accompanies newness.

In one matter, particularly, I should like to describe briefly the course and the result of Arizona's progressivism, and incidentally to give deserved credit to a branch of the Federal service which has been much maligned and misrepresented. When Congress, by the Enabling Act of June 20, 1910, granted to the state-to-be, for the use and benefit of various educational, charitable, reformatory and executive institutions, a great acreage of public lands, she accepted with eagerness the opportunity afforded for the exercise of her boasted progressivism. Whether or not the state's enthusiasm and confidence are misplaced or premature, only results can tell. But—and of course this is merely a reflection of the state's confidence—I will venture the prediction that Arizona will shortly possess the best land laws in the Union, best for the progress and development of the com-

monwealth and best for the prosperity and happiness of the home-maker. It was deemed wise to first take stock—to make a detailed inventory, as a prudent, systematic merchant would do, of the goods on hand, and to learn how best to handle them by digesting the wealth of invaluable knowledge to be gleaned from the experience of other public land states and countries, but the inauguration of a permanent policy will not be long delayed. In the meantime, none of the land is being stolen, nor given or frittered away.

It is not the purpose or scope of this letter to describe the present temporary plan of handling the more than ten million acres granted to Arizona for the benefit of her public institutions and the common schools, nor to present the collection of modern ideas which it is the aim to work into an up-to-date, far-sighted, far-reaching permanent system of state land administration. My purpose is merely to tell how one particular item of the Federal Government's great gift is being utilized, and by that means give a glimpse of the practical working of the state's progressivism.

By the act of February 18, 1881 (21 Stats., 326), Congress granted to each of the territories of Arizona, Dakota, Montana, Idaho and Wyoming, "seventy-two entire sections of the unappropriated public lands" for the use and support of universities when the territories should be admitted as states into the Union. The quota granted to Arizona was selected from the heart of a great pine forest, and when the new state took her position upon an equality with the other states, she found herself the owner of 36,890.14 acres of magnificently timbered land.

Thus, at the beginning of her career as a state, was Arizona confronted with a problem in which forestry and economics figured large. There was a big and valuable resource, designed for a definite purpose—the support and maintenance of a university. And here was a growing university, needing and calling for funds. Other institutions and other needs likewise called for financial support, and what with the extraordinary expenses of inaugurating a state government, there was promise of an excessive tax rate. The incentive was not slight to solve the problem, as it related to these valuable university timber lands, by such method as would insure the greatest immediate revenue,

to be, in turn, immediately expended. That would have meant the total devastation of the state's fine forest, as rapidly as possible, or the sale of the land and timber outright, which, in all likelihood, would also have meant devastation.

But Arizona was progressive, and being so, the subject of forestry—despite the hour's pressing financial needs—inevitably suggested its modern corollary, conservation. To any state it would have been obvious that the timber lands dedicated to the support and maintenance of a university must be made to serve their purpose, but to progressive Arizona it meant also that the nation's splendid gift should be made to fulfill its mission in the largest, broadest, fullest sense—not merely for today, but for the future; not merely for the immediate benefit of a university, but for the greatest good of state and nation. There could be no answer but conservation—the adoption of the methods of progressive, modern, practical forestry.

At once presented itself the advantage of profiting by the knowledge, experience and organization of the National Forest Service, a plan that would reduce expense, increase efficiency, remove doubts, and what was of probably more importance than anything else, eliminate the perils of state politics. At an early date I discussed the subject, in a preliminary way, with officials of the Forest Service, and was rewarded by their hearty, enthusiastic co-operation.

The investigations made by myself and by the state land commission inspired recommendations to the legislature which resulted in an act providing for the administration and sale of timber and timber products upon public lands of the state. The act, after imposing upon the state land commission the duty of caring for, selling and otherwise administering the timber and timber products upon the public lands of the state, provided that the commission's rules and regulations should conform as nearly as might be with the rules and regulations of the forestry department of the United States.

Thus will be observed that not only was authority for the sale of mature and over-mature timber on the university lands extended, but the vital principle of forest conservation was specifically recognized. It was a progressive victory—a triumph for conservation where not a few were enveighing against what

were described as the unreasonable exactions of United States forestry regulations.

There has been no occasion, on the part of the state, to regret the establishment of a policy of forest management in conformity, as it concerns the cutting and sale of timber, with that of the United States. Thus far co-operation between the State and Federal Government, informally entered upon at an early period in the state's history and afterward formally confirmed through the medium of co-operative agreement, has proved fully as advantageous as the state authorities believed it would. The well organized and increasingly efficient equipment of the forest service, with its experience of years, its technical information and its practical knowledge, has been placed at the service of the state, and that at a minimum of expense. None of the state's authority has been relinquished, none of the state's right or power to conduct its own affairs sacrificed, but it has at its command, at less than the cost of operation, a machine which years have been required to adjust, and in the necessary adjustment, repair and alteration of which not only time, but great effort and much money has been expended. No state, wedded to the narrow and reactionary idea that it must, by holding aloof from the assistance of others, maintain its sacred dignity as a sovereign commonwealth, could hope to organize an efficient forestry department in less time than the United States has required for the undertaking; and if an attempt to do so were pursued it would almost inevitably lead to the discovery, at the end of the period, of thousands of dollars wasted and a minimum of efficiency secured.

Since the co-operative agreement went into effect examinations of the university forests have been made by officials of the forest service, under the direction of the state land commission of Arizona, and reports of great value to the state submitted. Several sales have been made, and the marking and scaling are being performed, under forest service regulations, by forest service men. The purchasers, familiar with and accustomed to federal requirements, have had no occasion to remodel or readjust their systems or methods, and smoothness and satisfaction are manifest on all hands. The university forest is being safeguarded against denudation or destruction, waste eliminated, and the

future welfare of the state as well as of an important industry, protected.

That Arizona is a steadfast adherent to the principle of true conservation, as that principle affects the supply of growing timber, is of far more than passing importance, for the production and marketing of timber represents one of Arizona's chief industries. The vast pine forests of the state are among the greatest in the Union, and the need for their scientific protection can scarcely be magnified. To be sure, most of this timber is controlled by the United States, but it must readily be recognized that a state's position upon a subject in which it is more than ordinarily concerned will generally be reflected in and wield an influence upon national legislation, if not indeed upon the manner and rigidity of administering national laws within the state. Add to this factor the state's possession of a sufficient area of splendid timber to affect market conditions, the price of stumpage, and, under a careless system of disposition, the policy and attitude of the lumbermen themselves, and it is not difficult to understand that irreparable injury to the vital principle of conservation might be wrought by state hostility.

Arizona takes a genuine pride in the ease with which her system of handling her timber resources has been worked out, and in the efficiency, the economy and the progressivism of that system. And it gives me pleasure, as the chief executive of a state which has had much experience with the National Forest Service, to express appreciation of its growing efficiency and importance.

Respectfully,

GEO. M. P. HUNT,  
*Governor of Arizona.*

November 10, 1914.

Governors' Conference, Madison, Wisconsin.





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